

Capitol Contact

Virginia General Assembly

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Tuesday, February 16, 2021

School Construction and Maintenance Financing Legislation Encounters Mixed Fortunes

As previously [reported](#), several pieces of legislation seeking to address K-12 school construction and maintenance needs are making their way through the General Assembly.

On February 15, [SB 1106 \(Stanley\)](#), which 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, HVAC, electrical or plumbing systems of public elementary and secondary school buildings in the local school division, was reported and referred to the House Appropriations Committee, 21-1. VACo staff has spoken in support of this bill, though the Fund proposed by this legislation currently does not have dedicated source of funding. In the House, similar legislation – [HB 2093 \(O’Quinn\)](#) – was referred to the House Appropriations Committee, but was left in Committee without being voted on.

[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 2022 general election. The bill was reported and referred to the House Appropriations Committee by the House Privileges and Elections Committee, 21-1, on February 10.

Disappointingly, on February 16, legislation that would empower Isle of Wight County to impose an additional local sales and use tax of 1 percent if approved by voter referendum, the revenues of which would be obligated solely for capital projects for the

construction or renovation of schools in the County, was tabled by the House Finance Committee's Subcommittee #1. [SB 1170 \(Norment\)](#) would have extended to Isle of Wight County revenue raising authority currently enjoyed by nine localities and pioneered in 2019 by Halifax County. VACo staff spoke in support of the bill, but unfortunately the Subcommittee chose to recommend laying the bill on the table, 7-4. Subcommittee discussion acknowledged the need facing many localities for new and diversified revenue sources for school capital needs, however, the majority opted to table the bill with a commitment to examine the statewide issue as part of potential broader tax reform in a future session.

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

Governor announces mid-session revenue reforecast

On February 15, Governor Ralph Northam notified the chairs of the “money committees” that revenue collections had performed well enough to warrant a mid-session reforecast. General Fund revenues are now expected to increase by \$730.2 million over the biennium relative to estimates included in the December introduced budget - \$410.1 million in FY 2021 and \$320.1 million in FY 2022. The increase is largely attributable to continued strength in sales tax collections, which have grown by 6.5 percent on a fiscal year-to-date basis (the December introduced budget had predicted a 2.6 percent decline in FY 2021). Individual income tax withholding, the lion's share of General Fund revenues, has underperformed thus far in the fiscal year, growing by 0.4 percent (the December budget had assumed growth of 2.7 percent in this revenue source).

The reforecast does not adjust estimates for income tax collections, noting that “there are numerous unknowns on taxpayer behavior for filing, when significant rehiring may begin, and non-wage income gains last year.”

The additional revenues will now become part of the budget conference discussions, where they may ease in bridging differences between the two chambers' respective proposals. However, House Appropriations Committee Chairman Luke Torian sounded a note of caution in his remarks to Committee members on Monday afternoon after a brief presentation on the additional expected resources, pointing out that state budget needs will continue after the enhanced federal support that has been provided to assist in the pandemic recovery comes to an end.

VACo Contact: [Katie Boyle](#)

‘Return to School’ bill modified in House subcommittee

On February 15, [SB 1303 \(Dunnivant\)](#) was heard and modified by the House Education Committee’s SOL and SOQ Subcommittee. As previously [reported](#), the bill that passed the Senate would require that each local school division in the Commonwealth make virtual and in-person learning available to all students by choice of the student’s parent or guardian. The Chair of the Subcommittee offered an amendment in the nature of a substitute that requires local school boards to offer either fully in-person instruction or a combination of in-person and remote virtual instruction to enrolled students for the duration of the 2021-2022 school year. The bill also gives flexibility for local school divisions to offer virtual instruction at the request of a parent or if the school board determines that COVID-19 transmission in a school building is at a high level in accordance with Department of Health guidance documents, as long as this occurs during the Governor’s declaration of state of emergency. The Department of Health would be required to maintain a guidance document for the duration of the Governor’s declaration of a state of emergency that contains metrics for determining whether transmission of COVID-19 in a school building is a low, medium, or high level. Additionally, the bill requires that prior to the start of the 2021-2022 school year, all teachers and school staff be offered access to a COVID-19 vaccine through their local health district. Lastly, the provisions of the legislation will expire on August 1, 2022. The bill in the amended form has the support of Governor Ralph Northam and occurs in light of new [guidance](#) issued by the Centers for Disease Control (CDC) on school reopenings. The Subcommittee recommended reporting the substitute language unanimously, 8-0.

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

SLAF expansion ready for Governor’s signature

Having now passed the House and Senate, a helpful bill proposing expansions of project eligibility for Stormwater Local Assistance Fund (SLAF) projects is ready to be sent to Governor Ralph Northam for signing.

As previously reported in Capitol Contact, [SB 1404 \(Lewis\)](#) proposes two changes to SLAF. First, the bill authorizes SLAF awards for projects related to Chesapeake Bay total maximum daily load (TMDL) requirements to consider total phosphorus reductions or total nitrogen reductions. Second, the bill 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. This cost-share change emulates what is already done with the Water Quality Improvement Fund (WQIF).

SB 1404 found broad support in both chambers of the General Assembly, passing the House and Senate unanimously. **VACo supports** SB 1404 and is eager for the Governor to sign this helpful legislation.

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

Legislation providing flexibility for teacher licensure clears Senate Finance

[HB 1776 \(Ward\)](#) would require the Virginia Board of Education (VBOE) to grant a two-year extension of licenses for teachers and school personnel whose licenses expire on June 21, 2021, in order to provide additional time for individuals to complete the requirements for licensure. This is meant to provide additional flexibility to school personnel as they strive to adapt to the challenges of K-12 education during the pandemic and follows additional [actions](#) taken proactively by VBOE to provide extensions. It is hoped that reducing administrative burdens on teachers will help reduce the loss of experienced personnel needed to provide quality instruction to the Commonwealth's students.

According to VBOE's [2020 Annual Report](#), Virginia continues to face a shortage of quality educators entering and remaining in the classroom. It is anticipated that the COVID-19 pandemic will have an impact on the shortage. The number of unfilled positions increased from 440 during the 2010-2011 school year to a height of 1,081 in the 2016-2017 school year, then dropped slightly in the 2017-2018 and 2018-2019 school year. In the 2019-2020 school year, the number of unfilled positions stood at 1,063. The percent of provisionally licensed and inexperienced teachers has climbed similarly. The academic disciplines facing the highest critical shortage areas are Special Education, Elementary education (Grades PreK-6), and Middle Education (Grades 6-8).

HB 1776 reported unanimously from the Senate Finance and Appropriations Committee and will now head to the full Senate. The bill has not received a single "no" vote.

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

Local government funding mechanism for flood mitigation and protection reports to House floor

Legislation introduced by Senator Adam Ebbin establishing a new funding mechanism for flood mitigation and protection has advanced, reporting out of the House Counties, Cities and Towns Committee, 22-0.

[SB 1309 \(Ebbin\)](#) authorizes grants from a local Stormwater Management Fund to be used for flood mitigation and protection measures that are part of a comprehensive flood mitigation and protection plan adopted by the locality, and requires such grants, where practicable, to prioritize projects that include nature-based practices. Current law allows such funds to be used only for the construction, improvement, or repair of a stormwater management facility or for erosion and sediment control.

SB 1309 previously reported out of the Senate Local Government Committee, 14-0-1, before being passed by the full Senate, 39-0. The bill will now be considered and voted on by the full House later this week.

VACo supports SB 1309.

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

VACo supports allowing counties to finance renewable energy and energy efficiency investments through ‘green banks’

[HB 1919 \(Kory\)](#) authorizes local governments to create [green banks](#), an emerging finance mechanism that leverages public funding to attract private capital for investment in energy efficiency, renewable energy, and other distributed energy resources.

The legislation specifies that a locality may, by ordinance, establish a green bank to promote the investment in “clean energy technologies” and may include the following functions for a green bank:

1. Finance investment or financial support of investment in clean energy technologies to foster the growth and development of renewable energy sources;
2. Stimulate the demand for renewable energy and the deployment of clean energy technologies that serve end-use customers;
3. Before making any loan, loan guarantee, or other form of financing support for clean energy technologies – develop rules, policies, and procedures to specify borrower eligibility and any other term or condition of financial support;
4. Provide financing or financial support for clean energy technologies;
5. Develop consumer protection standards for investments to ensure that the green bank and its partners are lending in a transparent and responsible manner that is in the financial interests of the borrowers; and

6. Undertake any other activity as needed to support the mission of the green bank.

HB 1919 passed the house and is now headed to the Senate floor for consideration. VACo supports legislation allowing counties utilize creative financing mechanisms that enable the development of renewable energy sources and energy efficiency programs and measures.

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

Legislation addressing taxation of room rentals by online travel companies moves forward

[SB 1398 \(Norment\)](#) addresses a long-standing issue with the collection of sales and use and lodging taxes on accommodations arranged by an intermediary, such as hotel stays booked through an online travel company. The legislation would require sales and use and transient occupancy taxes to be calculated based on the total charges or the total price paid by the consumer for use of the accommodations. If an online travel company charges the customer for the room and also imposes an accommodations fee, taxes must be collected on the entire amount paid, including the accommodations fee (which has not previously been subject to these taxes). Revenues derived from imposing the state sales and use tax on the accommodations fee (after required distributions specified in current Code, including K-12 education and transportation) would be appropriated to the Virginia Tourism Authority for the provision of grants to promote tourism in Virginia. Local governments, destination marketing organizations, or regional attractions marketing agencies could qualify for grants. Local governments also stand to benefit through the receipt of additional sales and use and transient occupancy tax collections. **VACo supports** this legislation. The bill was reported by the House Finance Committee on February 15 and now heads to the House floor.

VACo Contact: [Katie Boyle](#)

New elements for local and interjurisdictional emergency operations plans pass Senate, head to the Governor's desk

Legislation codifying new elements for local and interjurisdictional emergency operations plans has passed the Senate by a vote of 36-3.

[HB 2085 \(Askew\)](#) adds a requirement to [§ 44-146.19\(E\)](#) of the Code of Virginia, stipulating that a local or interjurisdictional emergency operations plan shall “contain provisions to ensure that the plan is applied equitably and that the needs of minority and vulnerable communities are met during emergencies.” Such measures could include messaging in additional languages, targeted outreach, and more.

Most localities already include such provisions in their emergency planning, and according to Delegate Alex Askew, HB 2085 simply seeks to codify what is already standard practice. Moreover, recognizing the differing realities and needs of localities across the Commonwealth, Delegate Askew intentionally kept the new wording as simple and generic as possible, in order to not overly constrain a locality or impede any planning they have already done.

HB 2085 previously passed the House of Delegates by a vote of 87-11. The bill will now head to the Governor’s desk.

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

Bill establishing duties to render aid and report wrongdoing by law enforcement officers fails in Senate Judiciary

Legislation that would have established both a duty to render aid and a duty to report wrongdoing for law enforcement officers has been narrowly defeated, failing to report out of the Senate Judiciary Committee by a vote of 6-9.

[HB 1948 \(Levine\)](#) took a multipronged approach to new requirements for law enforcement officers. First, it would have required any law-enforcement officer on duty who witnessed another person suffering from a serious bodily injury or a life-threatening condition to render aid and made it a duty to report acts of wrongdoing, defined in the bill and including bias-based profiling, committed by another law-enforcement officer on duty. Additionally, any law-enforcement officer who failed to render such aid or who failed to report such wrongdoing committed by another law-enforcement officer, would have been subject to disciplinary action, including dismissal, demotion, suspension, or transfer of the law-enforcement officer. The bill also expanded the definition of “bias-based profiling.”

HB 1948 previously reported out of the House Public Safety Committee by a vote 15-6. It went on to pass the House of Delegates by a vote of 57-42. Due to substantial concerns raised about these new legal duties and their broad implications, the bill failed to advance out of Senate Judiciary on February 15.

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

General Assembly transitions to Special Session

The 2021 General Assembly convened in special session on February 10. Governor Ralph Northam issued a proclamation calling for the special session last week as part of a planned effort to extend what would otherwise be a 30-day regular session to the traditional 46-days allotted for the short session in odd-numbered years.

To ensure continuity between the regular and special sessions, legislation from the 2021 regular session that survived the February 5 crossover deadline has been carried over to the special session, and committees began taking up legislation that had “crossed over” from one chamber to the other in the afternoon on February 10.

The procedural resolution governing the special session sets out the planned schedule for conclusion of legislative business and a targeted adjournment date of March 1.

KEY DATES OF INTEREST

- **Wednesday, February 10:** Money committees’ deadline to report their respective budget proposals
- **Saturday, February 13:** Deadline for floor consideration of budgets by the respective originating chambers
- **Wednesday, February 17:** Deadline for committee action on revenue bills; deadline for each chamber to consider the other chamber’s budget proposal
- **Monday, February 22:** Deadline for committee action at midnight
- **Monday, March 1:** Adjournment *sine die*
- **Wednesday, April 7:** Reconvened session

VACo Contact: [Katie Boyle](#)