

Capitol Contact

Virginia General Assembly

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SOQ Support Position Bill Survives

As previously [reported](#), legislation seeking to enact prescriptions from the Virginia Board of Education (VBOE) has been reduced in scope to focus on creating staffing ratios in the Standards of Quality (SOQs) for certain K-12 support positions. [SB 1257 \(McClellan\)](#) would require local school divisions to employ or contract to provide at least three specialized support positions per 1,000 students. These positions could include school social workers, school psychologists, school nurses, licensed behavioral analysts, or other licensed health and behavioral positions. Local school divisions would have flexibility to determine which three positions to staff based on their needs. According to testimony provided by House Appropriations staff, the majority of school divisions are already meeting this proposed threshold, though approximately 40 would need to hire additional staff.

Funding for K-12 education in Virginia is a shared effort between the state and local governments, with local governments providing several billion dollars above the required local effort. Given the changes to state funding of K-12 education brought on by the Great Recession, the state artificially capped funding for support positions using an arbitrary ratio that often does not reflect local prevailing practice. In the decade since its imposition, removing this “support cap” has been a long-held goal for education and local government advocates. In previous General Assembly sessions, VACo unsuccessfully introduced budget language to fully restore this funding.

Given the bill’s original fiscal impact to the state of \$462.3 million, SB 1257 was reduced in scale by the Senate but funded in the Senate’s proposed budget. In its amended form, SB 1257 does not remove the support cap, however it would provide approximately \$49.2 million in FY 2022 for the state share of funding for the three specialized positions. For school divisions already meeting this threshold, this would represent additional state funding for positions that are currently funded by local governments. School divisions not meeting this threshold would be provided the state share of the cost

for these positions as determined by their local composite index (LCI), but also would be required to fund the local share of the cost. Testimony from the patron focused on the need for these positions, especially as the fiscal, emotional, and health impacts of the pandemic continue to be felt by Virginia's students.

SB 1257 was reported by the House Appropriations Committee, 13-7, on February 17.

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

Funding mechanism for local flood mitigation and protection passes House

Legislation introduced by Senator Adam Ebbin establishing a new funding mechanism for local governments seeking to embrace flood mitigation and protection projects has finished its journey through the General Assembly, passing the House of Delegates unanimously on February 17.

[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.

Having now passed the House of Delegates and having previously passed the Senate, SB 1309 will now be referred to the Governor's desk for action.

VACo supports SB 1309.

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

Electric school bus legislation stuck in neutral

[SB 1380 \(Lucas\)](#) would authorize Dominion Energy to implement projects to encourage the proliferation of electric school buses and charging infrastructure to reduce the use of traditional diesel school buses and help with electric grid stabilization. This is the second year this legislation has been filed after the previous [iteration](#) of this bill was defeated by the House of Delegates during the 2020 regular session. A pilot [program](#) was created in 2019 to bring 50 electric school buses to a number of localities within Dominion's service area.

SB 1380 would expand the existing program to allow local school divisions to partner with Dominion to purchase up to 1,250 additional electric school buses. School

divisions would be reimbursed for the purchase of the school buses and charging infrastructure. The use of electric school buses would serve as electric grid stabilizers by allowing the batteries needed to charge the buses to store and inject energy into the grid during periods of high demand when the buses are not being used for the transport of students. Dominion would be authorized to seek rate adjustments to cover the costs of implementing this program. The bill would also add electric school buses and their charging equipment to the list of certified pollution control equipment and facilities, which are exempt from state and local taxation.

Dominion claims that the benefits to students and localities of using electric school buses include interior school bus air quality six times better than a traditional diesel-fueled bus, 60 percent reduced operation and maintenance costs to localities, and reduced greenhouse gas emissions. Buses purchased through this program will be equipped with lap-and-shoulder belt occupant restraint systems, consistent with [recommendations](#) from the National Transportation Safety Board. Though electric school buses and school buses equipped with shoulder restraints are generally more expensive to purchase than traditional school buses, Dominion has committed to offsetting the additional costs.

The bill has support from several school divisions and the Virginia Association of School Superintendents (VASS). However, SB 1380 faces opposition from several environmental groups who have expressed equity concerns over Dominion recouping the costs of the projects from rate payers.

SB 1380 was reported by the House Labor and Commerce Committee, 15-5, after being amended to include several provisions requiring Dominion to pay a local prevailing wage rate for workers employed for the projects and establish certain hiring preferences. After going by for two days, the bill was amended on the House floor to reduce the number of school buses to 1,000, clarify that participation from local school divisions was optional, establish that the buses would be prioritized as vehicles for the transfer of students as opposed to batteries, and require that Dominion dedicate at least 25 percent of the buses to school divisions with high levels of poverty and low ambient air quality. The bill was defeated on a vote of 34-53, before it was reconsidered and again passed by for the day.

In the Senate, somewhat related, but entirely different legislation, which would establish an Electric Vehicle Grant Fund and Program to assist local school divisions with the replacement of diesel school buses, was reported with substitute language by the Senate Finance and Appropriations Committee, 12-4. [HB 2118 \(Keam\)](#) was conformed to the Committee to the language of SB 1380.

VACo Contacts: [Jeremy R. Bennett](#) and [Joe Lerch, AICP](#)

Compromise wetland and stream mitigation bank credits bill heads to Senate floor

A compromise bill dealing with wetland and stream mitigation bank credits has passed cleared its first hurdle in the Senate, reporting out of the Senate Agriculture, Conservation and Natural Resources Committee by a unanimous 13-0 vote.

[HB 1983 \(Bulova\)](#) is the result of a series 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 was strategically designed to strike a balance between water quality and conservation interests and land development interests.

The House of Delegates previously passed HB 1983 several weeks ago (January 25) by a vote of 84-15-1. HB 1983 will now be heard on the Senate floor and may be voted on as early as the end of this week.

VACo is pleased to support HB 1983 and is grateful to Delegate David Bulova for his hard work on this issue.

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

Absentee voting bills advance

Several bills under consideration this session stem from the significant increase in absentee voting in the November 2020 election, which was a result of the General Assembly's action during the 2020 session to establish 45 days of no-excuse absentee voting. Two omnibus bills, [SB 1245 \(Deeds\)](#) and [HB 1888 \(VanValkenburg\)](#), make permanent several changes to absentee voting procedures that were required for the November 2020 election under legislation enacted during the 2020 special session, and address other aspects of the state's experiences in November.

Key elements of SB 1245 include:

- Language requiring the Department of Elections to make a tool available to localities so that voters with visual impairments are able to mark absentee ballots and requiring general registrars to provide this tool to voters who

indicate that such assistance is needed. Similar language was included in [SB 1331 \(Reeves\)](#) and results from litigation on this issue last fall.

- Provisions making permanent the requirement for localities to establish drop-off locations for absentee ballots at the registrar’s office, any satellite locations, and at polling places on election day. Language allows voters to return absentee ballots to drop-off locations and requires information on drop-off locations to be included with absentee ballots. These provisions had been in place for the November 2020 election.
- Language making the “cure” process for absentee ballots permanent (general registrars are required to contact a voter if an absentee ballot is submitted with an error on the ballot envelope). These provisions were also in place for November 2020.
- Language authorizing pre-processing of absentee ballots (to prepare them to be counted) prior to the seventh day before an election, and requiring pre-processing beginning on the seventh day prior to the election.
- Language requiring the establishment of a central absentee precinct by the governing body.
- Language directing the Department of Elections to convene a workgroup to evaluate methods for sorting absentee ballots by precinct and to report its recommendations by October 31, 2021. This concept addresses the issues raised in [HB 2239 \(Robinson\)](#) and [SB 1153 \(Suetterlein\)](#), which would have required such allocations by precinct (in-person votes on Election Day are attributed to each precinct, but typically absentee votes are all reported in the central absentee precinct, a situation that has been of more interest in recent months given the large expansion in absentee voting in November). Although VACo has no objection to the concept, VACo and other organizations had objected to this requirement being put in place without accompanying state funding to assist with the additional equipment and printing costs required for its successful implementation, a complex task for localities with satellite locations serving large numbers of precincts.

HB 1888 includes the provisions of SB 1245 (except for the study of allocating absentee ballots by precinct), in addition to the following:

- Language making permanent the requirement for prepaid postage to be provided with absentee ballots. During the special session, the state provided funding to reimburse localities for these costs (an estimated \$940,000 was reimbursed for the November 2020 election), and language in the House budget would direct the Department of Elections to continue to reimburse localities for these costs out of remaining funds. VACo has advocated for state dollars to continue to support this state policy goal.

- Language requiring absentee ballots to begin being tallied starting at noon on the day of the election (current law permits counting to begin at 3pm that day).
- An enactment clause providing for voters who are currently allowed to submit an annual application for absentee ballots for all elections held that year to transition to the permanent absentee voter list.
- Language directing that absentee in person ballots be reported separately from other absentee ballots, which is a step toward allocating absentee votes by precinct.

HB 1888 is on the Senate floor and SB 1245 is on the House floor.

[SB 1239 \(Bell\)](#) authorizes a general registrar to contract with a third party for the printing, assembly, and mailing of absentee ballots. The State Board of Elections would adopt regulations governing the implementation of the bill. SB 1239 is on the House floor.

[HB 1968 \(Bagby\)](#) authorizes an electoral board or general registrar to provide for in-person absentee voting on Sundays. This bill is on the Senate floor.

VACo Contact: [Katie Boyle](#)

Environmental permit fee study groups bill passes House and Senate

[SB 1210 \(Petersen\)](#), which directs the Director of the Department of Environmental Quality (DEQ) to convene working groups to study annual fee schedules for nonhazardous solid waste management facilities and annual maintenance fees for certain water withdrawal permits, has now passed the House and Senate.

As initially introduced, SB 1210 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 concerns about the fiscal impact of this legislation as well as our 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, VACo raised significant concerns about the increased costs this bill will generate for local governments, either as the owners of these facilities or as partners in a host agreement with private operators.

Ultimately, Senator Chap Petersen agreed to amend this legislation, opting to simply form a working group comprised of local government representatives, industry representatives, environmental representatives, and Administration representatives. The working groups shall meet after the conclusion of the General Assembly session and will study the annual fee schedules for nonhazardous solid waste management facilities and the annual maintenance fees for certain water withdrawal permits. The working groups will be tasked with developing recommendations for future fees.

VACo will continue to closely monitor this issue and will keep members updated accordingly.

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

New erosion and sediment control practices for solar projects referred to House Appropriations

Legislation proposing new erosion and sediment control practices for solar projects has reported out of the House Agriculture, Chesapeake and Natural Resources Committee and been rereferred to the House Appropriations Committee.

[SB 1258 \(Marsden\)](#) makes changes to § [62.1-44.15:55.1](#) of the Code of Virginia, which deals with localities and solar projects. Specifically, SB 1258 requires that the State Water Control Board administer a Virginia Erosion and Sediment Control Program (VЕСP) on behalf of any locality that notifies the Department of Environmental Quality (DEQ) that it has chosen not to administer a VЕСP for a solar project larger than 5 megawatts (MW).

SB 1258 initially passed the Senate by a vote of 39-0 on February 4.

VACo has no position on this bill provided it remains a local option.

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

New requirements for community outreach for air, water, and waste permits fail

Legislation that proposed robust new community and environmental justice outreach for certain applications for permits from the Virginia Department of Environmental Quality (DEQ) failed to report out of the [Senate Agriculture, Conservation and Natural Resources Committee](#) on Thursday, February 18. The result was not unexpected as a similar measure, [SB 1373 \(McClellan\)](#), failed to report from the same committee earlier in the regular session.

[HB 2221 \(Hayes\)](#) included requirements for applicants seeking permits for air, water, waste and groundwater to hold a public hearing to present information to attendees, collect comments, and then submit all oral and written comments to DEQ. For certain permits applications, including for new municipal landfills, the applicant is also required to send notification the “. . . mailing address for any parcel of real property that is depicted within a three-mile radius . . .” of the proposed site of the new facility.

The debate and controversy regarding the proposal revolves around how much notice to, and input from, historically disadvantaged communities is necessary before DEQ issues a permit. Concerns about how these additional requirements could potentially slow down and hamper economic development and job creation were raised by opponents to the measure.

VACo Contacts: [Joe Lerch, AICP](#) and [Chris McDonald, Esq.](#)

Carbon Sequestration Workgroup passes the House, returns to the Senate

Legislation introduced by Senator Lynwood Lewis establishing a Carbon Sequestration Task Force has now passed the House and will be sent back to the Senate so two small amendments can be considered.

[SB 1374 \(Lewis\)](#) directs the Secretary of Natural Resources, jointly with the Secretary of Agriculture and Consumer Services, to convene a task force for the purpose of studying carbon sequestration in the Commonwealth and submit a report of its findings before the first day of the 2022 Session of the General Assembly.

The bill directs the task force to:

- Consider possible methods of increasing carbon sequestration within the natural environment through state land and marine resources use policies; agricultural, aquacultural, and silvicultural practices; and other practices to achieve

restoration of natural resources and long-term conservation;

- Recommend short-term and long-term benchmarks for increasing carbon sequestration;
- Develop a standardized methodology to establish baseline carbon levels and account for increases in carbon sequestration over time;
- Identify existing carbon markets and considerations relevant to potential participation by the Commonwealth; and
- Identify other potential funding mechanisms to encourage carbon sequestration practices in the Commonwealth.

SB 1374 previously passed the Senate unanimously and passed the House on February 16 by a vote of 79-20.

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

Increased fine for littering ready for Governor's signature

A bill increasing possible fines for dumping or littering has now passed the House and Senate and will be sent to the Governor for consideration.

[HB 1801 \(Edmunds\)](#) doubles the current possible minimum fine for dumping or disposing of litter, trash, refuse or other specified items on public property or on private property without permission, raising the fine from \$250 to \$500. Initially the bill also sought to increase the possible maximum from \$2,500 to \$5,000, though this was amended back to \$2,500 in Committee. Similarly, the bill proposes increasing the mandatory minimum period of community service from 10 hours to 40 hours, though this too was stripped in Committee.

HB 1801 was reported out of the House Courts of Justice Committee, 18-4, and passed the House of Delegates on February 3 by a vote of 65-32. After crossover, HB 1801 reported out of the Senate Transportation Committee, 12-3, and passed the full Senate on February 17 by a vote of 23-14.

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