

Capitol Contact

Virginia General Assembly

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Tuesday, February 23, 2021

Please Contact Legislators to Support Key County Priorities in Budget Conference

The House and Senate budgets have been placed in a conference committee to resolve differences between the two proposals in advance of the session's scheduled completion of legislative business on February 27. Both proposals contain items of importance to county government; a short list of priority items is provided below. VACo encourages members to contact budget conferees and members of your delegation about the following items. Amendments labeled "h" are in the House budget; amendments labeled "s" are in the Senate budget.

House Conferees: [House Appropriations Chairman Torian](#), [Vice-Chairman Sickles](#), [Delegate Carr](#), [Delegate Tyler](#), [Delegate Bulova](#), [Delegate Knight](#), [Delegate Austin](#)

Senate Conferees: [Senate Finance and Appropriations Chair Howell](#), [Senator Barker](#), [Senator Lucas](#), [Senator Locke](#), [Senator Deeds](#), [Senator Norment](#), [Senator Hanger](#);
Advisors: [Senator Saslaw](#), [Senator Newman](#)

Items VACo Supports

Retention of full hold-harmless funding for K-12: VACo strongly supports the introduced budget's protection of school divisions from revenue losses associated with enrollment fluctuations during the pandemic through the provision of \$299.4 million General Funds (GF) in FY 2021 and \$214.2 million GF in FY 2022 in "no loss" funding.

KEY POINTS

- Full state no-loss funding would provide vital assistance to school divisions that would otherwise experience revenue losses as a result of enrollment declines that are out of their control and are likely temporary in many cases.

- This state support would allow federal dollars to be used as enhanced support for school divisions to address pandemic-related costs such as improving building air quality and addressing learning loss.

Addressing learning loss: VACo supports amendments that would address this important element of Virginia’s recovery from the COVID-19 pandemic. [Item 145 #7s](#) would provide \$30 million in Lottery proceeds in FY 2022 to support one-time programs and initiatives to address learning loss; [Item 144 #4h](#) would provide \$30 million in federal Elementary and Secondary School Emergency Relief Funds for grants to address learning loss and other student support needs.

KEY POINTS

- Information provided to the Board of Education in late January indicated that significantly more kindergarten and first grade students started the current school year missing benchmarks for literacy readiness compared to last year. Similarly, the majority of school divisions reported increases in students failing two or more classes compared to last year in both middle and high school.
- Addressing these issues promptly is important to ensuring students’ future academic and career success.

Broadband mapping: [Item 114 #2h](#) would provide \$424,000 GF in FY 2022 for the Department of Housing and Community Development to develop a statewide broadband map, a key step in improving affordable and accessible coverage.

KEY POINTS

- Existing federal mapping of areas unserved by broadband is overly broad and does not accurately portray address by address data, and instead relies on census block level data in which if one location within a census block is served, the entire census block is considered to be served.
- Identifying the scope of unserved areas is vital to determining broadband solutions. This amendment would bolster existing local government efforts to provide broadband services to their communities.

Prepaid postage for absentee ballots: Legislation moving through the General Assembly would require the provision of prepaid postage with absentee ballots. [Item 86 #1h](#) would direct the Department of Elections to continue to reimburse localities for these costs from funds remaining in the \$2 million appropriation made in the special session (approximately \$940,000 of these funds were used to reimburse localities for postage costs during the November 2020 election).

KEY POINTS

- VACo strongly endorses the state continuing to support this requirement with state dollars.
- By-mail absentee voting will likely continue to play an important role in Virginia elections. Legislation enacted in 2020 that takes effect July 1, 2021, allows voters to be placed on a permanent absentee voter list, through which they will receive absentee ballots by mail for every election in which they are qualified to vote.

Full reimbursement for compensation for general registrars and electoral board members: In FY 2019, the state reimbursed 69 percent of salaries for general registrars and 82 percent of electoral board member compensation relative to the levels set in the Appropriation Act. [Item 87 #1h](#) provides full reimbursement for the compensation of general registrars and electoral board members, in addition to placing registrars' salaries on par with those of Treasurers. [Item 87 #1s](#) provides for full reimbursement and was a request of VACo; this funding was included in the March 2020 budget but unallotted in April.

KEY POINTS

- Local governments are expending significant funds for election administration. In FY 2019 (the most recent year for which the Auditor of Public Accounts has produced comprehensive reports), localities reported spending approximately \$49 million for election administration, of which the state provided approximately \$6 million to localities in partial reimbursement for general registrar and electoral board member compensation.
- Additional state resources would help localities to advance the legislature's goals of expanding voting access. Full reimbursement for this compensation would free up local dollars which currently make up the difference between the state's contribution and the salary levels set in the Appropriation Act, and is a good starting point for building a more robust state-local partnership in election administration.

Study of mandatory property tax exemptions: VACo requested this language amendment, which will require a study of the effects of mandatory property tax exemptions on local finances and the development of ways to mitigate their effects on the local tax base. ([Item 114 #6h](#) and [Item 114 #4s](#))

KEY POINTS

- In 2010, a constitutional amendment providing for a real 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. Implementation legislation is moving through the legislature

this session to provide a personal property tax exemption for one motor vehicle owned by a disabled veteran after passage of another Constitutional amendment in November 2020.

- A better understanding of the effect of these exemptions at the local level is important, as participation in the current tax exemption programs has exceeded initial expectations. In FY 2019, the exemptions for disabled veterans and surviving spouses of servicemembers killed in action resulted in approximately \$60 million in lost revenue for localities.
- The study would be a step toward developing a way for the state to aid veterans in a way that is sustainable and does not hamper localities' ability to provide critical local services.

Reinstatement of distribution of recordation tax revenues to

localities: Passage of transportation funding legislation in 2020 resulted in the dedication of \$20 million in recordation taxes to the Hampton Roads Regional Transit Program that would otherwise be distributed to localities outside of Northern Virginia for transportation or education purposes. Given the continued strong growth in recordation tax revenue, VACo is advocating that a portion of this growth be dedicated to making affected localities whole.

KEY POINTS

- Prior to the 2020 General Assembly session, a portion of recordation tax revenues had been distributed to localities since 1993; funding was distributed quarterly and could be used by counties and cities for either transportation or K-12 purposes.
- Restoration of these funds will help localities respond to the transportation and education needs of their communities, which as a result of COVID-19 are greater than ever.

Aid to local public libraries: [Item 247 #1h](#) and [Item 247 #1s](#) would restore \$1 million GF in aid to local public libraries in FY 2022 that had been unallotted last spring.

KEY POINTS

- The state formula for aid to public libraries was last fully funded in FY 2001.
- Libraries have served as an especially valuable resource for many communities during the pandemic, in many communities providing internet access and offering virtual programming to supplement online learning.

Implementation of updated Cooperative Health Budget funding

formula: VACo supports proposals to hold localities harmless that would otherwise be required to contribute an increased local match for the upcoming fiscal year. VACo had

proposed language in [companion member amendments](#) to allow those localities to contribute half of their increased match in FY 2023 and the full increased match in FY 2024, and would encourage consideration of such an approach.

KEY POINTS

- Hold-harmless funding in FY 2022 would allow affected localities time to plan and budget for their increased local contributions. Further phasing in the increases in local contributions over the upcoming biennium will allow these localities more time to adjust to the updated match rates.
- The match rates have not been fully updated in decades, so a limited transitional period for localities that will experience an increase in their local contributions would be a modest accommodation. The Virginia Department of Health expects to update match rates on a more routine basis moving forward, so the changes in local contributions will likely be more moderate in future years.

Stormwater Local Assistance Fund: This funding provides vital assistance to local governments in meeting water quality requirements. ([Item 379 #1h](#))

KEY POINTS

- Local governments must be equipped with the tools and funding necessary to achieve their water quality goals and help the Commonwealth meet its WIP III requirements. The Stormwater Local Assistance Fund (SLAF) is one of the most effective and efficient tools available to local governments and must be adequately funded.
- The Department of Environmental Quality's (DEQ) SLAF needs assessment makes it clear that there is a nearly \$50 million gap between the funding currently available through SLAF and the projects local governments have already planned for. This budget amendment provides critical funds that help close this gap.

Enhanced Nutrient Removal Certainty Program: [Item C-70.50 #1h](#) would provide \$150 million in bond proceeds for this purpose, which will assist Virginia in meeting the requirements of the Phase III Watershed Implementation Plan.

KEY POINTS

- This provides funding pursuant to the Enhanced Nutrient Removal Certainty Program (ENRC Program), as established by [HB 2129 \(Lopez\)](#) and [SB 1354 \(Hanger\)](#).
- This budget item, in conjunction with the provisions of the ENRC Program, will provide funding for certain design and installation costs for implementing nutrient upgrades at local wastewater treatment plants.

- This funding is a critical component of the largest, most important Chesapeake Bay cleanup initiative in the wastewater sector in 16 years.
- Virginia will not meet its WIP III goals without the continued nutrient reductions achieved by the wastewater sector, reductions that are directly linked to this funding.

Tree conservation workgroup: VACo has been part of the group of stakeholders advocating for this initiative. This workgroup would be charged with developing policy recommendations to 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. ([Item 107 #1h](#))

KEY POINTS

- Tree replacement and conservation is an increasingly important tool for local governments, in regard to water quality projects, flood mitigation and prevention, and more.
- This workgroup will examine the existence and efficacy of current tree replacement and conservation policies as well as examine potential new policies that will further empower localities to preserve, plant and replace trees during the land development process.

Flexibility in provision of utility assistance: VACo supports revisions to the language governing use of Coronavirus Relief Funds to provide utility assistance in order to allow these funds to be applied to a customer’s account more than once. ([Item 479.10 #1h](#) and [Item 479.10 #1s](#))

KEY POINTS

- Due to the ongoing economic hardship experienced by many Virginians, utility assistance is still an important aspect of pandemic recovery.
- Flexibility to provide additional assistance is particularly helpful given recent action by Congress to extend the time allowed to expend Coronavirus Relief Fund dollars.

Item VACo Opposes

Deletion of language regarding local rate negotiation for private day placement services: [Item 292 #2s](#) would eliminate language that was added to the budget during the special session to make clear that local Children’s Services Act programs must continue to fund services associated with a child’s placement in a private school pursuant to an individualized education plan, but may adjust rates paid to account for virtual or distance learning such that rates reflect the level of service being provided.

KEY POINTS

- This language struck an appropriate balance by ensuring that children would continue to receive services while also addressing situations in which localities were asked to pay previously-contracted rates for services that were not able to be provided in accordance with the stipulations of local contracts.
- Retaining the language in the budget would make explicitly clear localities' ability to negotiate rates when services are not able to be provided at a comparable level to what was specified in a contract.

VACo Contacts: [VACo Legislative Team](#)

'True Cost' of education study resolution aces tests in committee

[SJ 294 \(Lewis\)](#) would require the Joint Legislative Audit and Review Commission (JLARC) to study the true cost of education in the Commonwealth and provide an accurate assessment of the costs to implement the Standards of Quality (SOQs). As VACo has previously [reported](#), the SOQs prescribed by the Virginia Board of Education (VBOE) and enacted and funded by the General Assembly set minimum requirements that must be met by all local school divisions for K-12 education in Virginia. Funding of SOQ requirements is met by a combination of state and local resources. Local ability to pay for standards with required local effort (RLE) is determined by the [composite index formula \(LCI\)](#), which is updated every two years to account for the latest available state and local values in real property, adjusted gross income, retail sales, average daily membership of students, and total population.

Even though the SOQs set the minimum standards for K-12 education in Virginia, they do not reflect the actual prevailing costs of maintaining a high standard K-12 education system. No locality in Virginia funds its share of K-12 responsibilities at the minimum standards as prescribed by the state. In FY 2018, 92% of school divisions exceeded RLE by more than 25%. A quarter of all school divisions exceeded the RLE by 75% to 100%. On average this equates to \$4 billion spent by localities beyond state requirements, making Virginia localities one of the top ten supporters of K-12 education by proportion of local funding in the nation according to the latest census data.

In conducting its study, the JLARC shall (i) estimate the cost of implementing the Standards of Quality based on the actual expense of education prevailing in the Commonwealth; (ii) determine if the Standards of Quality accurately reflect actual standards of practice within each school division; (iii) analyze changes in the Standards of Quality funding formula since 2009 and the impact of such changes on its accuracy in reflecting such costs; (iv) recommend changes to the Standards of

Quality funding formula to ensure that state support is neither inadequate nor excessive; and (v) consider any other funding issues and make any other recommendations it deems relevant.

JLARC would be required to conduct a two-year study of this subject submit an executive summary of its findings and recommendations no later than the first day of the General Assembly session in 2023 and 2024. The resolution was reported from the House Rules Committee unanimously, 18-0.

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

License plate reader bill converted to a study, awaits fate on House floor

Legislation that initially sought to prohibit law-enforcement and regulatory agencies from using license plate readers to collect and maintain personal information on individuals without a warrant has been converted to a study bill and currently awaits a final vote in the House of Delegates.

[SB 1198 \(Petersen\)](#) was substantially amended by the House Public Safety Committee, where a substitute was introduced that resulted in the legislation simply creating a work group to further study the issue. The substitute bill requires that the Secretary of Public Safety and Homeland Security establish a stakeholder work group to review the use of license plate readers as used by law-enforcement agencies within the Commonwealth. In conducting such review, the stakeholder work group shall (i) identify and analyze the data and information that is gathered from such license plate readers; (ii) identify and analyze how such data and information are used and retained by law-enforcement agencies within the Commonwealth; and (iii) develop recommendations relating to the length of time such data and information should be retained by law-enforcement agencies and any other recommendations about proper usage or retention of such data and information.

The legislation stipulates that members of the stakeholder group shall be appointed by the Secretary of Public Safety and Homeland Security in consultation with the Speaker of the House, the Chairman of the House Public Safety Committee, the President of the Senate, and the Chairman of the Senate Judiciary Committee. Representatives shall include the Virginia State Police, the Virginia Sheriffs' Association, the Virginia Association of Chiefs of Police, the Virginia Association of Commonwealth's Attorneys, the Virginia State Crime Commission, the American Civil Liberties Union or other civil liberties union, a social justice organization, the Virginia Association of Criminal Defense Lawyers, a data privacy expert, and such other stakeholders as the Secretary of Public Safety and Homeland Security deems appropriate.

In its original form, SB 1198 reported out of the Senate General Laws and Technology Committee by a vote of 8-4-3 before passing the full Senate 28-11. The substitute study bill, as described above, reported out of the House Public Safety Committee by a vote of 18-4. Currently, SB 1198 awaits a final vote on the House floor. Should it pass the House, it will be rereferred to the Senate for consideration.

VACo will continue to monitor this legislation and report updates as they come.

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

Update on social services legislation

Bills addressing a variety of aspects of social services, from foster care to public benefits, have been considered this session. Several bills of interest to local governments are discussed below.

[HB 1820 \(Helmer\)](#) makes modifications to benefits programs that are administered by local departments of social services. The bill makes post-secondary education a qualifying work activity for individuals participating in the Virginia Initiative for Education and Work (a component of the Temporary Assistance for Needy Families (TANF) program) and the employment and training component of the Supplemental Nutrition Assistance Program (SNAP). The bill also directs the Board of Social Services to establish broad-based categorical eligibility for SNAP, which provides that individuals receiving TANF benefits are assumed to qualify for SNAP as well. (This initiative was also included in the Governor's budget.) The bill also increases the income limit for individuals to qualify for SNAP and removes the asset limit. The bill has passed both chambers.

[HB 1962 \(Gooditis\)](#) requires relatives and fictive kin (individuals who are not related to a child by blood or adoption but have an established relationship with a child or his/her family) to be involved in the development of a foster care plan (current law requires parents to be involved unless parental rights have been terminated or parents cannot be located). The bill also requires that placement with fictive kin be included as a potential option in the development of the foster care plan. The bill requires that a child 12 years or older be involved in the development of the plan (current law requires such involvement beginning at age 14). The bill passed both chambers.

[HB 2191 \(Leftwich\)](#), as passed by the House, would have required local departments of social services to disclose the location of a child to a legal guardian or custodian of the child upon request, unless the local department found that such disclosure would compromise the safety of the child or the legal guardian or custodian. The bill was amended in Senate Rehabilitation and Social Services to limit its applicability to cases in which the local department has investigated. The revised version requires the local department to disclose the child's location to the parent or guardian, provided that

the investigation was not completed, the parent or guardian verifies that he or she has legal custody of the child, the parent or guardian has not been the subject of a founded report of child abuse or neglect, the local department is not aware of a court order prohibiting or limiting the parent or guardian's contact with the child, the other parent or guardian, or other person responsible for the care of the child, and disclosure of the child's location will not compromise the safety of the child, the other parent or guardian, or other person responsible for the care of the child. The bill is on the Senate floor.

[SB 1328 \(Mason\)](#) would create a state-local program to assist relatives in taking custody of children who would otherwise remain in foster care. This concept was recommended by the Joint Legislative Audit and Review Commission in its 2018 report on Virginia's foster care system, as well as by the Virginia Commission on Youth in 2019. Both bodies have been concerned about Virginia's poor performance relative to other states of children aging out of foster care before finding a permanent family. Virginia's current federally-funded Kinship Guardianship Assistance program provides monthly payments and access to foster care services to relatives who become legal guardians of children in foster care in order to facilitate a permanent placement of the child, but this program requires the potential guardian to be a licensed foster parent for the child for six months in order to qualify, which has limited participation. The State-Funded Kinship Guardianship program under the bill would operate through the Children's Services Act structure and provide payments to guardians based on an agreement developed with the local department of social services. A child would qualify if he or she had been removed from his/her home and been in the custody of the local department of social services for at least 90 days. Prospective kinship guardians would qualify by completing the relative foster home approval process (or qualifying for a waiver). The Department of Social Services estimates that 90 children will qualify for the program in FY 2022 and 100 children will qualify in FY 2023 and in subsequent years. This bill passed both chambers.

VACo Contact: [Katie Boyle](#)

Paid sick leave bill narrowed in scope

[HB 2137 \(Guzman\)](#) as originally written would have required employers of certain essential workers, including local governments, to allow these employees to accrue up to 40 hours of paid sick leave to respond to individual health conditions or care for a family member. The types of local employees originally covered under the bill included law-enforcement, firefighters, emergency medical services personnel, educators and support staff, transportation workers, and jail personnel. Additional employees originally covered included health care workers, domestic workers, food manufacturing and supplier workers, and home health care workers. The bill provides that an employee would be eligible for paid sick leave if the employee works on average at least 20 hours per week or 90 hours per month. The bill provides for an

employee to earn at least one hour of paid sick leave benefit for every 30 hours worked.

On February 22, the Senate Commerce and Labor Committee reported the bill with substitute language that narrowed the category of eligible employee to home health care workers not licensed, registered, or certified by a health regulatory board with the Department of Health Professions, employed by a hospital licensed by the Department of Health, and works, on average, no more than 30 hours per month. The bill was referred to the Senate Finance and Appropriations Committee, which reported the bill on the same day, 11-4.

This development is notable given the failure of similar [efforts](#) during the 2020 General Assembly session and additional legislation during the 2021 session that would have 1) required paid sick leave be provided by all employers with more than 25 employees ([SB 1159 \(Favola\)](#)), 2) required paid sick leave be provided by all employers with more than 35 employees ([HB 2103 \(Reid\)](#)), and, 3) require hazard pay be provided for certain essential workers ([HB 2015 \(Ayala\)](#)). The effort to expand to other employee categories the requirement that paid sick leave be provided by employers will likely be renewed in future General Assembly sessions.

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

Compromise wetland and stream mitigation bank credits bill passes Senate, ready for Governor's signature

[HB 1983 \(Bulova\)](#), a compromise bill dealing with wetland and stream mitigation bank credits, has successfully completed its journey through the General Assembly and will now be sent to the Governor.

HB 1983 is the result of a series virtual work group 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 passed HB 1983 on January 25 by a vote of 84-15-1. On Friday, February 19, the Senate followed suite, passing the legislation by a vote of 39-0. The bill will now head to the Governor's desk for action.

VACo has been pleased to support and speak on behalf of HB 1983 as it has wound its way through the General Assembly, and we are grateful to Delegate Bulova for his hard work on this issue.

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

Update on Constitutional Amendments

After reviewing proposals on topics ranging from the expansion of real property tax exemptions to authorizing a two-term Governor, the General Assembly has selected two Constitutional amendments to advance to the next step of the process. Members of the subcommittee of House Privileges and Elections that reviewed Constitutional amendments before crossover aimed to limit the number of amendments approved this session to two, with a potential for approving a third, so as to avoid a lengthy ballot in 2022, when the amendments would be placed before voters (assuming they pass in identical form in the 2022 session).

[HJ 582 \(Sickles\)](#)/[SJ 270 \(Ebbin\)](#) would remove current language limiting marriage to one man and one woman and provide that marriage is a fundamental right. Both measures have passed both chambers. [HJ 555 \(Herring\)](#), as passed by the House, provides for automatic restoration of political rights, including the right to vote, for an individual convicted of a felony upon completion of his/her sentence of imprisonment. [SJ 272 \(Locke\)](#), as passed by the Senate, would provide that a person who meets the Constitutional requirements for voters (being a citizen of the United States, being 18 years of age, and meeting the residency and registration requirements) has a fundamental right to vote, with the exception of a person convicted of a felony during his/her term of incarceration, and a person who has been adjudicated as lacking the capacity to understand voting, unless capacity has been re-established. HJ 555 and SJ 272 are in the process of being placed in conference to reconcile differences between the two approaches.

Below is a selection of unsuccessful Constitutional amendments of interest to local governments.

[HJ 548 \(Hurst\)](#) would have provided that it is the responsibility of the Commonwealth (not the General Assembly) to provide for a system of free public K-12 education, and required the Commonwealth to ensure that an educational program of high quality is established and maintained (current language provides that the legislature "shall seek to ensure" such a program). HJ 548 failed to emerge from the House Privileges and Elections Committee's Constitutional Amendments Subcommittee. A similar measure, [SJ 275 \(Stanley\)](#), would have required the General

Assembly to provide for a system of free public K-12 education that affords equitable educational opportunities for all children, and to ensure that all children of school age are provided with equitable educational opportunities in funding an educational program meeting the standards of quality. SJ 275 passed the Senate but was tabled in House Privileges and Elections.

[HJ 614 \(Mundon King\)](#), which was also left in the Constitutional Amendments Subcommittee, would have expanded the current mandatory real property tax exemption for the surviving spouses of servicemembers who are killed in action to include the surviving spouses of servicemembers who die while serving in the armed forces or who die from a service-connected injury or illness. VACo opposed the expansion of this exemption, recommending that the legislature instead look to the income tax as a more equitable way to aid veterans' families, including surviving spouses who do not own property. [SJ 297 \(Bell\)](#), which was passed by indefinitely in Senate Finance and Appropriations, would have authorized 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 opposed this measure as unnecessary, given the approval of a Constitutional amendment in 2002 authorizing local governing bodies to provide property tax exemptions for certain nonprofit organizations by ordinance, at local option. 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.

[HJ 616 \(Bourne\)](#) would have allowed the General Assembly to authorize a local governing body to provide for a full or partial real property tax exemption for real estate on which affordable housing is constructed. This measure was also left in the Constitutional Amendments Subcommittee.

[HJ 551 \(Rasoul\)](#) would have allowed 16 year olds to register to vote and to vote in local elections. This measure was also left in the Constitutional Amendments Subcommittee.

[SJ 310 \(Saslaw\)](#) would have provided that a regular session of the General Assembly in an odd-numbered year would last for 46 days and could be extended for a period not exceeding 14 days. Current Constitutional language provides for a 30-day regular session in an odd-numbered year, with an option to extend the session for a period not to exceed 30 days. The extension requires a super-majority vote; this year, Republicans in the General Assembly objected to the extension, resulting in a 30-day regular session and the Governor calling a special session for the balance of the 46 days. SJ 310 was tabled in House Privileges and Elections.

VACo Contact: [Katie Boyle](#)

Carbon sequestration work group ready to be signed into law

Legislation introduced by Senator Lynwood Lewis establishing a Carbon Sequestration Task Force has now passed the House and Senate and will be sent to Governor Ralph Northam for review and eventual signing.

[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 with amendments. The Senate agreed to the House's amendments and passed the revised legislation, 38-0.

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

'Return to School' bill further modified in committee; graduates to House Floor

On February 22, [SB 1303 \(Dunnavant\)](#) was heard and further modified by the House Education Committee. As previously [reported](#), the bill was modified with substitute language developed with the patron by the Chair of the House Education Committee's

SOL and SOQ Subcommittee that would require 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, among other provisions. The bill was further modified with substitute language adopted by the full House Education Committee that specifically requires local school divisions to provide in-person instruction and defines in-person instruction to mean any form of instructional interaction between teachers and students that occurs in real time and not include the act of proctoring remote online learning in classroom. School divisions would be required to offer in-person instruction for at least the minimal required instructional hours and to adopt in the maximum extent practicable, COVID-19 mitigation strategies as recommended by the U.S. Centers for Disease Control (CDC). The bill retains the requirement that local school divisions offer virtual instruction at the request of a parent, that teachers and school staff be permitted reasonable virtual accommodations in accordance with the Americans with Disabilities Act, that all teachers and staff be offered access to a COVID-19 vaccine, and that the provisions of the legislation will expire on August 1, 2022. The bill also allows that 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.

A motion to add an emergency clause to the bill to allow it to take effect upon passage was defeated in committee. If passed, the bill will give school divisions until July 1, 2021, to prepare for any changes to their instructional models. According to [data](#) from the Virginia Department of Education, all but two school divisions are currently offering some form of in-person instruction and 20 school divisions are conducting full in-person instruction. The Committee reported the bill with the substitute language, 17-3.

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

State Parks funding bill ready to be signed by Governor

Legislation introduced by Delegate Bobby Orrock that seeks to address funding issues for Virginia's state parks unanimously passed the Senate on February 19.

[HB 1804 \(Orrock\)](#) requires the Virginia Department of Conservation and Recreation (DCR) to develop recommendations for one or more dedicated, stable sources of funding for the state parks system. DCR shall convene stakeholders to study the issue and develop recommendations and shall submit its recommendations to the General Assembly no later than November 1, 2021.

[A 2019 study by the Virginia Tech Pamplin School of Business](#) reported that in 2019, visitors to Virginia's state parks spent approximately \$286.2 million in the

Commonwealth, nearly 45% (\$130.2 million) of which was spent by out-of-state visitors. The report further noted that the total economic activity stimulated by Virginia State Parks during 2019 was approximately \$437.7 million, an estimated \$343 million of which is considered “fresh money,” funds that likely would have not been generated at all in the absence of the park system. In terms of the park system’s impact directly on counties, the report details millions of dollars of economic activity in counties that are above state averages.

HB 1804 previously passed the House by unanimous vote on January 25. The bill will now be sent to the Governor’s office for consideration and signing.

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