

# Capitol Contact

## Virginia General Assembly

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

Thursday, January 20, 2022

# Bills Would Impose Restrictions on Local Budget Process

[HB 1010 \(Durant\)](#) and [SB 620 \(Cosgrove\)](#) would impose new restrictions on the local budget process by requiring a referendum if growth in real estate assessments would generate more than 101 percent of the previous year's collections and the locality did not reduce the tax rate accordingly. VACo is opposed to this legislation.

Under current law, when any annual assessment, biennial assessment, or general reassessment of real property by a county, city, or town would result in an increase of 1 percent or more in the total real property tax levied, the locality has two options:

- Reduce the tax rate for the forthcoming tax year so as to produce no more than 101 percent of the previous year's real property tax levies, OR
- If deemed necessary by the governing body, a rate that produces more than 101 percent of the previous year's levies may be imposed after conducting a public hearing on the issue. Statutory provisions govern the timing and manner of public notice of the hearing, as well as stipulating the contents of the notice. By Code, the advertisement must include (1) a statement providing the percentage by which the total assessed value of real property (excluding additional assessments due to new construction or improvements to property) exceeds the previous year's total assessed value of real property; (2) an explanation of the rate that would generate the same amount of real estate tax collections as the previous year; (3) the rate proposed to be adopted; (4) the percentage by which the

proposed budget would exceed the previous year's; and (5) the date, time, and location of the public hearing.

HB 1010 and SB 620 would eliminate the public hearing requirement and instead require any increase in the rate of levy above the reduced rate to be approved by a referendum.

**VACo encourages members to register opposition to these bills with their legislators.**

## **KEY POINTS**

- Property taxes are the mainstay of local government revenues, representing approximately 46.4 percent of revenue for cities and 55 percent of revenues for counties in FY 2020. Revenues derived from property taxes fund important shared services, such as K-12 education, public safety, election administration, social services, and behavioral health.
- Article X, Section 2 of the Virginia Constitution requires real estate to be assessed at fair market value. Rising assessments reflect a robust real estate market. Local elected officials have the ability to provide targeted tax relief to residents with disabilities or who are 65 or older, subject to locally-established income or financial worth limitations.
- Local governments are already required by § 58.1-3321 to hear public comment in circumstances when assessments are increasing, and the tax rate is not proposed to be reduced accordingly. Local governments are also required to hold a separate public hearing on the proposed local budget. These two venues afford residents the opportunity to provide important feedback about their priorities for public services and how the revenue to fund those services should be raised. Decisions about the tax rate must be weighed along with decisions regarding demands for services and other spending pressures.
- Local elected officials are accountable to their constituents for all decisions they make, including the establishment of tax rates and the use of revenues derived from local taxes.

**VACo Contact:** [Katie Boyle](#)

## **School Construction Local Authority Financing Bill Advances**

On January 19, by a vote of 14-2, the Senate Finance and Appropriations Committee voted to report [SB 472 \(McClellan\)](#). VACo spoke in strong support of

the measure, which would permit any county or city to impose an additional local sales and use tax of up to 1 percent, if initiated by a resolution of the local governing body and approved by voters at a local referendum. The revenues of such of the local tax would be used solely for capital projects for the construction or renovation of schools. Any tax imposed shall expire when the costs for capital projects are to be repaid and shall not be more than 20 years after the date of the resolution passed. Currently, this authority is limited to the qualifying localities of Charlotte, Gloucester, Halifax, Henry, Mecklenburg, Northampton, Patrick, and Pittsylvania Counties and the City of Danville.

VACo thanks everyone who responded to our [Capitol Contact Alert](#) on the measure. The Committee also voted to advance by similar votes, [SB 37 \(Norment\)](#) and [SB 298 \(Deeds\)](#), which would expand this authority to Isle of Wight County and the City of Charlottesville respectively and are also supported by VACo.

SB 472 now moves to the full Senate. **VACo strongly encourages you to contact your [Senators](#) and urge them to support SB 472.**

In the House, two pieces of legislation identical to SB 472 have been filed. [HB 531 \(Hudson\)](#) has been [assigned](#) to the House Finance Committee's Subcommittee #3, while [HB 1099 \(LaRock\)](#) is pending committee assignment, but will most likely also be assigned to a House Finance Subcommittee. VACo strongly supports these bills and requests that you to contact members of the [House Finance Committee](#) to urge them to support this legislation.

Delegate Hudson also filed [HB 545 \(Hudson\)](#), which is the House companion for [SB 298 \(Deeds\)](#). Additionally, Delegate Edmunds introduced [HB 63 \(Edmunds\)](#), which grants this taxing authority to Prince Edward County. VACo also supports these bills.

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

## **VACo Supports Helpful Public Notice Bill in Committee Tomorrow at 9am**

**VACo supports [HB 167 \(Ransone\)](#)**, which provides that in any instance in which a locality has submitted a correct and timely notice of public hearing to a newspaper published or having general circulation in the locality and the newspaper fails to publish the notice or publishes it incorrectly, such locality shall be deemed to have met certain notice requirements so long as the notice was published in the next available edition.

HB 167 passed in subcommittee Thursday morning by a vote of 9 to 1 and is headed to the full committee for consideration on Friday (tomorrow) at 9am.

**Action Required** – Contact members of the [House Counties, Cities and Towns Committee](#) to vote “YES” on HB 167.

## KEY POINTS

- HB 167 does not circumvent any public notice requirements. The bill only allows a hearing to go forward if the locality has already followed all relevant public notice requirements and the newspaper inadvertently failed to publish the hearing notice or publishes it incorrectly.
- This bill is supported by VACo and VML as well as the Virginia Press Association.

## KEY CONTACTS

- **House Counties, Cities and Towns Committee:** [Hodges \(Chair\)](#), [Morefield \(Vice Chair\)](#), [McNamara](#), [LaRock](#), [Wyatt](#), [Avoli](#), [Ballard](#), [Cherry](#), [Scott, P.A.](#), [Cordoza](#), [March](#), [Wachsmann](#), [Mullin](#), [Roem](#), [Gooditis](#), [Kory](#), [Subramanyam](#), [Jenkins](#), [Williams Graves](#), [Sewell](#), [Bennett-Parker](#), [Shin](#)

**VACo Contacts:** [Joe Lerch, AICP](#) and [Phyllis Errico, Esq., CAE](#)

## Bill Proposes Elimination of BPOL

[HB 380 \(Freitas\)](#) would prohibit any county, city, or town from imposing any license tax or fee in any taxable year beginning on or after January 1, 2023, with the exception of coal and gas severance taxes that are levied as license taxes. VACo is opposed to the elimination of this local revenue source, which is imposed by 48 counties and generated \$466 million in county revenue in FY 2020. VACo has historically opposed restrictions on the imposition of business, professional, and occupational licensing (BPOL) taxes without a corresponding replacement in revenue; HB 380 does not replace the lost revenue.

The authority to impose BPOL taxes is already subject to certain limitations. A series of categories of businesses spelled out in Code are exempt from BPOL taxes (such as certain news publications, manufacturers, and insurance companies and banks). For localities with populations greater than 50,000, businesses with gross receipts less than \$100,000 are not subject to BPOL taxes; businesses with gross receipts of less than \$50,000 in localities with populations between 25,000 and 50,000 are similarly exempt from taxes (although these businesses may be subject to capped license fees). For those businesses subject to BPOL taxes, rates within each category of business are capped. In order to provide greater uniformity in administration, local BPOL ordinances must be substantially similar to statutory provisions dealing with the administration of the tax, such as due dates and appeals. Localities may impose the tax on gross receipts or on

Virginia taxable income. Localities may exempt, by ordinance, license fees or license taxes on any business that does not have an after-tax profit for the taxable year.

HB 380 has been referred to the [House Finance Committee](#).

**VACo Contact:** [Katie Boyle](#)

## VACo Supports Bill Removing Authority of State Air Board to Overturn Local Land Use Decisions

[SB 81 \(Stanley\)](#) fixes a quirk in state law (dating back to 1966) that effectively gives the Air Pollution Control Board the power to override local land use decisions (for example, when a Board of Supervisors approves the location a project through the granting of a Special Use Permit). The issue with existing law is that the board can deny an air pollution permit for a project if it determines the “activity” is not suitable “to the area in which it is located,” even when the proposed air pollution controls meet or exceed both federal and state standards to control air pollutants, and regardless of whether it is compliance with all applicable local land use ordinances. The legislation removes this authority of the Board to do so when making permit decisions. The bill will likely be considered in Senate Agriculture, Conservation and Natural Resources on Tuesday, January 25.

**Action Required** – Contact members of the [Senate Agriculture, Conservation and Natural Resources Committee](#) to vote “YES” on SB 81.

### KEY POINTS

- An appointed citizen board at the state level should not have the authority to override the land use decisions of local elected officials.
- The bill does not remove the authority of the Air Pollution Control Board to make permit decisions based on all applicable state and federal laws and standards to protect and improve local air quality.

### KEY CONTACTS

- [Senate Agriculture, Conservation and Natural Resources Committee: Petersen \(Chair\), Hanger, Ruff, Obenshain, Stuart, Marsden, Stanley, Lewis, Suetterlein, Mason, McClellan, Favola, Morrissey, Hashmi, Hackworth](#)

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

# General Government Bills to Watch

## Governmental Immunity

- [HB 609 \(Bourne\)](#) – This bill, which is very detrimental for localities, creates a civil cause of action for the deprivation of any rights, privileges, or immunities pursuant to the constitutions and laws of the United States and the Commonwealth due to the acts or omissions of either a public employer or its employee and provides that a plaintiff may maintain an action to establish liability and recover compensatory damages, punitive damages, and equitable relief against the public employer and its employee. The bill provides that sovereign immunity is not a defense to such an action. The bill further provides that public employers owe a duty of reasonable care to third parties in the hiring, supervision, training, retention, and use of their employees and that a person who claims to have suffered injury or sustained damages caused, in whole or in part, by a breach of this duty may maintain an action to establish liability and recover compensatory damages, punitive damages, and equitable relief against such public employer.
- [HB 384 \(Davis\)](#) **Right of state and local Employees; freedoms of conscience and expression** – This bill seeks to protect state and local government employees from being required to take actions incompatible with their deeply held beliefs, values, or conscience and protects them from being penalized for expressing opinions in opposition to or approval of official government policy.

## Conflict of Interests

- [HB 626 \(Roem\)](#) – This bill creates new and more stringent land use disclosure requirements for certain local government officials. These requirements apply to the governing body, the planning commission, and the board of zoning appeals in any proceeding before each such body involving an application for a special exception or variance or involving an application for amendment of a zoning ordinance map, which does not constitute the adoption of a comprehensive zoning plan, an ordinance applicable throughout the locality, or an application filed by the governing body that involves more than 10 parcels that are owned by different individuals, trusts, corporations, or other entities. Members of these public bodies shall, prior to any hearing on the matter or at such hearing, make a full public disclosure of any business or financial relationship that such member has, or has had within the 12-month period prior to such hearing. Business or financial relationship is defined in the bill and includes the receipt by the member, or by any person, firm, corporation, or committee in his behalf, from the applicant in the case or from the title owner, contract purchaser, or lessee of the subject land, except, in the case of a condominium, with the title owner, contract purchaser, or lessee of 10 percent or more of the units in the condominium, or from any of the other persons above specified, during the 12-

month period prior to the hearing in such case, of any gift or donation having a value of more than \$100, singularly or in the aggregate.

If at the time of the hearing in any such case, such member has a business or financial interest with the applicant, that member shall, prior to any hearing on the matter or at such hearing, make a full public disclosure of such a business or financial interest or employee-employer, agent-principal, or attorney-client relationship and shall be ineligible to vote or participate in any way in such case or in any hearing thereon.

- [HB 216 \(Simonds\)](#) and [SB 57 \(Locke\)](#) – These bills exempt from the definition of gift, tickets and registration or admission fees to an event that are provided by an agency to its own officers or employees for the purposes of performing official duties related to the officer's or employee's public service.
- [SB 224 \(McPike\)](#) **Local Lobbying** – This bill creates a new requirement of registration for individuals who lobby local government officials. The bill requires any individual who is compensated to influence or attempt to influence a local government action through oral or written communication with a local government officer or employee to provide written notice of his status and a \$25 fee to the clerk of the governing body of the officer's or employee's locality. The bill exempts from this requirement (i) certain executive and legislative officials and employees, (ii) local government employees or officers acting in their official capacity, (iii) contractors or employees of a contractor performing services for the local government, and (iv) an attorney clearly identified on a land use application. Failure to provide notice is a Class 1 misdemeanor.

### **Public Notice**

- [HB 167 \(Ransone\)](#) **Publication of notice by localities** – VACo supports this bill, which provides that in any instance in which a locality has submitted a correct and timely notice request to such newspaper and the newspaper fails to publish the notice, or publishes the notice incorrectly, such locality shall be deemed to have met the appropriate notice requirements so long as the notice was published in the next available edition of a newspaper having general circulation in the locality.

### **Freedom of Information Act**

- [HB 150 \(March\)](#) **Posting Minutes** – This bill requires, with certain exceptions outlined in the bill, any local public body subject to the provisions of the Freedom of Information Act to post meeting minutes on its official public government website, if any, within seven working days of final approval of the minutes. The bill provides that if a local public body does not own or maintain an official public government website, it shall make copies of all meeting minutes available no later than seven working days after the conclusion of a meeting at a prominent public location in which meeting notices are regularly posted, at the office of the clerk of

the public body, or, in the case of a public body that has no clerk, at the office of the chief administrator.

- [HB 154 \(March\)](#) **Public Database** – This bill requires the establishment of a publicly available, centralized database for all public records. All public bodies will be required to transfer any public records in its possession to the database. The provisions of the bill that establish the central public records database shall become effective on July 1, 2023, and the provisions of the bill requiring every public body to submit its public records to VITA for inclusion in the central public records database shall become effective on January 1, 2024.
- [HB 307 \(Freitas\)](#) – Provides that a public body subject to the Virginia Freedom of Information Act shall make all reasonable efforts to supply records requested by a citizen at the lowest possible cost. The bill also requires a public body to notify the requester in writing of any estimated costs for the supplying of requested records prior to conducting a search for such records.
- [HB 331 \(Krizek\)](#) – Adds a requirement that a request for public records made pursuant to the Virginia Freedom of Information Act shall be made in writing and sent by the requester to the public body by registered mail, certified mail, or any other similar first-class mail tracking method used or approved by the United States Postal Service.
- [HB 444 \(Bennett-Parker\)](#) and [SB 214 \(McPike\)](#) – VACo supports these bills amending existing provisions concerning electronic meetings by keeping the provisions for electronic meetings held in response to declared states of emergency, repealing the provisions that are specific to regional and state public bodies, and allowing public bodies to conduct virtual public meetings under certain circumstances in non-emergency times.
- [HB 493 \(Mullin\)](#), [HB 734 \(Bell\)](#) and [HB 890 \(Kilgore\)](#) – All these bills make changes to the provisions of the Freedom of Information act dealing with disclosure of law-enforcement and criminal records, limitations.
- [HB 599 \(Roem\)](#) – VACo opposes this bill, which changes FOIA policy in three major ways. First, it mandates that each person in the Commonwealth including every member of a news entity receive 8 free hours of FOIA requests per month free of charge. It provides a per hour cap on fees charged on any request after the 8 hours of free monthly requests. It also provides that a public body may petition the appropriate court for relief from the hourly fee cap. Finally, the bill requires a public body to post on its website or otherwise publish a written policy (i) explaining how the public body assesses charges for accessing or searching for requested records and (ii) noting the current fee charged, if any, by the public body for accessing and searching for the requested records.

- [HB 722 \(Gooditis\)](#) – Allows a local public body that serves in an advisory capacity to gather through electronic means without a quorum of the public body physically assembled at one primary or central meeting location if certain conditions regarding notice and public participation are met.
- [HB 980 \(Williams Graves\)](#) – This bill adds email addresses as information that, when made in confidence to the local governing body, with respect to complainants in local investigations are exempt from disclosure under the Virginia Freedom of Information Act. The bill expands the applicability of the exemption to zoning enforcement complaints for all such complaints, not just individual enforcement complaints. The bill also adds local public health and safety, nuisance, and waste and recycling complaints to the list of complainants whose personal information is exempt from disclosure.

### **Procurement bills**

- [HB 58 \(Davis\)](#) – Prohibits local governing bodies from requiring contractors to pay wages above those required by federal or state law.
- [HB 374 \(Williams Graves\)](#) – Requires all bidders or offerors on construction contracts over \$250,000 to submit a list of subcontractors intended to be used and a statement they have investigated them. Public bodies shall review the list and may disqualify a subcontractor if the information has not been submitted.
- [HB 488 \(Freitas\)](#) – Prohibits state agencies from requiring contractors in public works contracts from complying with collectively bargained wage provisions.
- [HB 705 \(Keam\)](#) – This bill allows localities to use joint and cooperative procurement for construction projects not to exceed \$200,000.
- [HB 818 \(Torian\)](#) – This bill provides that no state agency shall furnish a final payment to any prime contractor without first ensuring that all subcontractors have been paid in full.
- [HB 881 \(Fowler\)](#) – Requires contracts awarded by state or local government agencies to include a clause obligating the contractor to be individually liable for the amount owed to a subcontractor minus any amount for breach of contract.
- [HB 883 \(Byron\)](#) – Repeals provisions relating to paying prevailing wage above minimum wage and project labor agreements.
- [HB 1091 \(Wilt\)](#) – This bill requires that prior to requiring a contractor on a public works project to enter into a project labor agreement, the public body shall make a written determination that it is in the public's interest to do so.

- [SB 258 \(Bell\)](#) and [SB 259 \(Bell\)](#) – The bills set mandatory bid, performance, and payment bonds at \$500,000.
- [SB 225 \(McPike\)](#) and [HB 429 \(Bulova\)](#) – These bills provide for all public bodies A/E term contract limits are \$10 million for term, \$2.5 million per project with three renewals. Term ends at end of year or when limit is reached.
- [SB 13 \(Favola\)](#) – This bill allows roofing to be part of an energy performance contract but requires that the roofer be acquired through competitive negotiation.
- [SB 290 Favola](#) and [HB 471 \(Subramanyam\)](#) – This bill requires state agencies and localities designing new buildings over 5,000 square feet or in large renovations to ensure that such building has a solar ready roof. Does not apply to localities under 100,000 until July 1, 2023. New school buildings or large renovations must be designed to generate more electricity than consumed.

**VACo Contact:** [Phyllis Errico, Esq., CAE](#)

## Finance Bills Begin to be Heard

Both the Senate Finance and Appropriations Committee and the House Finance Committee took up legislation on Wednesday, January 19. Of interest to local governments were the following bills:

[HB 199 \(Webert\)](#) allows a locality to provide by ordinance that a parcel of real property that is part of a land use program may not be removed from the program due to taxes being delinquent if the taxes are paid no later than December 31 (current Code provides that if taxes for any prior year are delinquent on April 1, the property owner must be notified, and if the taxes remain unpaid on June 1, the parcel is to be removed from the program). The bill also provides that no parcel of real property shall be removed from the land use program for delinquent taxes if the taxes become delinquent during a state of emergency declared by the Governor due to a disaster, the treasurer determines that the disaster giving rise to the state of emergency has caused hardship for the taxpayer, and the delinquent taxes are paid no later than 90 days after the deadline. The bill was reported unanimously from House Finance.

[HB 200 \(Webert\)](#) provides that the tax exemption for an organization that is tax exempt by classification extends to the property of a single member limited liability company whose sole member is an organization that would be tax-exempt under this category. The bill was reported unanimously from House Finance.

[HB 368 \(Williams Graves\)](#) increases the maximum amount that the governing body of a locality may authorize its treasurer to issue for a refund of taxes paid as

a result of an erroneous tax assessment. In 2020, this maximum amount was increased from \$2500 to \$5000; HB 368 further increases the amount to \$10,000. The bill was reported unanimously from House Finance.

[SB 25 \(Ruff\)](#) requires a locality or regional cigarette tax board that increases its cigarette tax rate to allow a transition period of one year for retailers to pay the tax increase on unsold inventory by filing a return (rather than having to plan for stamping, or re-stamping, individual packs). The bill reported unanimously from Senate Finance and Appropriations.

[SB 77 \(Norment\)](#) allows a county to conduct a general reassessment of real estate every three years if determined by majority vote of the board of supervisors. The bill reported unanimously from Senate Finance and Appropriations.

**VACo Contact:** [Katie Boyle](#)

## Broadband Advisory Council Meeting - VATI Grant Administration Process

On Friday, January 21, the Broadband Advisory Council will meet to review the recent Virginia Telecommunication Initiative grant cycle, receive updates on the new statewide broadband availability map, and learn more about the Virginia Telecommunication Initiative (VATI) grant administration process between DHCD and local governments.

The Department of Housing and Community Development's Office of Broadband has received questions and comments from local government elected officials and staff around Virginia about how funds awarded through the VATI process are managed. This upcoming meeting will be a great opportunity to share how the funds are actually distributed.

For meeting information and agenda – click on the following link at: <https://commonwealthcalendar.virginia.gov/Event/Details/54275>

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

## Key Dates for the 2022 General Assembly

As part of its organizational work on the first day of the 2022 session, the General Assembly adopted a procedural resolution on January 12 that sets out important dates and deadlines for the 2022 legislative session.

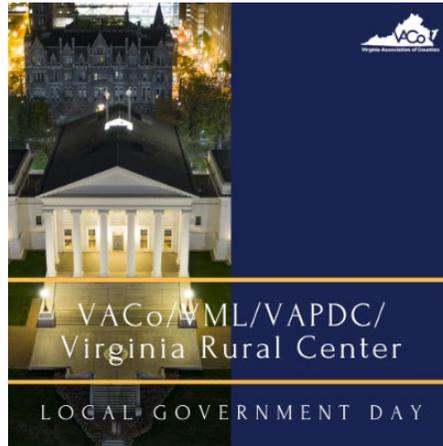
## Key dates for the 2022 Session

- **January 12:** General Assembly convened at noon. Bills that were “prefiled” were due to be submitted by 10 a.m. All bills and regulations affecting the Virginia Retirement System or creating or continuing a study were required to be filed before adjournment. Governor Northam delivered the State of the Commonwealth address at 7 p.m.
- **January 14:** Deadline for submission of budget amendments
- **January 15:** Joint Assembly for inaugural ceremonies
- **January 17:** Joint Assembly for address by Governor Youngkin
- **January 21:** Deadline for all bills or joint resolutions to be filed by 3 p.m. (with some exceptions, such as legislation introduced at the request of the Governor or legislation allowed to be introduced after deadlines by unanimous consent)
- **February 15:** “Crossover” deadline for each chamber to complete work on legislation originating in that chamber (except for the budget bill)
- **February 20:** Money committees report budgets by midnight
- **February 22:** Money committee budget proposals available by noon
- **February 24:** Houses of introduction must complete work on budget
- **March 2:** Deadline for each chamber to complete work on other chamber’s budget proposal and revenue bills and appoint conferees
- **March 7:** Deadline for committee action on legislation by midnight
- **March 12:** Scheduled adjournment *sine die*
- **April 27:** Reconvened session for consideration of Governor’s amendments and vetoes

VACo Contact: [Katie Boyle](#)

# Advocate for your locality at the VACo Local Government Day

In Partnership with VML, VAPDC and the Virginia Rural Center



**Thursday, February 3, 2022 | [Omni Richmond Hotel](#) | [REGISTRATION FORM](#) | [REGISTER ONLINE](#)**

## **Local Government Day**

It's a day for all of us. Counties. Cities. Towns. Planning Districts. It's a day for us to learn how the decisions being made by the General Assembly might affect us. And it's a day to make our voices heard. Attend Local Government Day. Then visit the Capitol to meet with your legislators and observe committee meetings. Later join us for a reception.

## **Registration Fee**

\$100 Day Briefing only (Noon – 2pm)

\$100 Reception only (530pm)

\$150 for both | \$175 late registration

## **Agenda**

- Welcome, Introductions, and Lunch
- Governor-Elect Glenn Youngkin (Invited)
- Team Legislative Reports
- Visit Capitol to speak with Legislators
- Legislative Reception

For information on how to reach your representatives, see the [Virginia House of Delegates](#) and the [Senate of Virginia](#) member websites. Find information about VACo's positions in the [2022 Legislative Program](#). We will distribute the Local Government Day Bulletin before the event.

Be a part of the legislative process at the 2022 General Assembly Session.

Register for the event at [VACo Local Government Day Online](#) or fax the [Registration Form](#) to 804.788.0083.

### **Hotel Reservation Details**

Lodging costs are not covered in the registration fee. Local Government Day is held at the Omni Richmond Hotel, 100 South 12th Street, Richmond, VA 23219. Room rates start at \$162 (single room occupancy). To reserve a hotel room, call 804.344.7000 by January 24, 2022, with this code: **Government Legislative Day 2022 Group** or reserve a room at this [Omni Richmond Hotel link](#).

**VACo Contact:** [Valerie Russell](#)