

# Capitol Contact

## Virginia General Assembly

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

Friday, January 28, 2022

## Several Bills Limiting County Taxing Authority to be Heard Monday – Contact Your Legislators to Oppose

### Limitations on meals and transient occupancy taxes

- [HB 75 \(Ware\)](#) would place restrictions on the additional taxing authority that was granted to counties in 2020. **VACo opposes this legislation.**
- The bill would generally place a cap of 5 percent on transient occupancy taxes imposed by counties and require revenues from rates between 2 and 5 percent to be dedicated to tourism. Under the 2020 legislation, unless previously authorized for some other purpose, county transient occupancy tax revenues from rates between 2 and 5 percent are to be dedicated for tourism, but counties may impose rates above 5 percent and may use that revenue for general purposes.
- The bill also caps meals taxes imposed by counties at 2 percent, with rates up to 4 percent allowed if approved in a referendum. Under the 2020 legislation, meals taxes are allowed at up to 6 percent, with no referendum requirement. HB 75 also reinstates earlier Code language that restricts a meals tax referendum that fails from being placed on the ballot by resolution of the board of supervisors within three years of the referendum's failure.
- HB 75 has been referred to the House Finance Committee and will be heard in Subcommittee #2 on Monday, January 31.

## KEY POINTS

- The 2020 legislation recognized that counties bear similar responsibilities to those of cities, and that counties need similar options for revenue diversification to generate the necessary funds to provide these services. This legislation retreats from the progress that was made in 2020.
- Counties have recognized the stresses placed on the hospitality industry during the pandemic and have developed a variety of creative approaches to assist local hotels and restaurants, including the use of federal relief funds to provide grants, regulatory flexibility and grant funding to assist with outdoor dining, and restaurant gift card promotion programs, among other efforts.

## **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 opposes this legislation.**

## KEY POINTS

- VACo has historically opposed restrictions on the imposition of BPOL taxes without a corresponding replacement in revenue, which this bill does not include. In FY 2020, BPOL generated \$466 million in county revenue.
- Removing a county revenue source will result in more stresses on the other revenue sources available to counties, including real property taxes, or reductions in core services.

**ACTION REQUIRED** – Please contact your legislators, especially any members who serve on the House Finance Committee or House Finance Subcommittee #2, to oppose these bills. These bills will be heard in subcommittee immediately upon adjournment on Monday, January 31.

## KEY CONTACTS

**HOUSE FINANCE COMMITTEE’S SUBCOMMITTEE #2:** [Fowler \(Chair\)](#), [Orrock](#), [Campbell](#), [R.R.](#), [Runion](#), [Wiley](#), [Keam](#), [Willett](#), [Bennett-Parker](#), [Robinson](#)

**HOUSE FINANCE COMMITTEE:** [Robinson \(Chair\)](#), [Fowler \(Vice Chair\)](#), [Orrock](#), [Ware](#), [Byron](#), [Freitas](#), [McNamara](#), [Campbell](#), [R.R.](#), [Walker](#), [Runion](#), [Wiley](#), [Durant](#), [Watts](#), [Keam](#), [Sullivan](#), [Murphy](#), [Hudson](#), [Willett](#), [Scott, D.L.](#), [Mundon King](#), [Simon](#), [Bennett-Parker](#)

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

## School Construction Financing Bills Defeated in House Subcommittee, Others Advance

On January 28, by a vote of 5-3, the House Finance Committee's Subcommittee #3 laid three school construction local financing bills on the table, effectively ending their journey towards passage. [HB 531 \(Hudson\)](#) would have permitted 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. As previously [reported](#), 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. Also defeated in committee was [HB 545 \(Hudson\)](#), which would have granted this authority to the City of Charlottesville, as well as [HB 63 \(Edmunds\)](#), which would have done the same for Prince Edward County. You can view how subcommittee members voted on all three bills [here](#). An identical bill to HB 531, [HB 1099 \(LaRock\)](#), was struck at the request of the patron.

VACo supported the three bills, and VACo President Meg Bohmke testified to the subcommittee in favor of their passage as well as expounding on the need to address the issues of aging school infrastructure across the Commonwealth, both as a matter of local government responsibility as well as children's health. She was joined in her support by the President of the Virginia Municipal League, and representatives from Virginia First Cities, the Virginia School Boards Association, the Virginia Education Association, and other representatives from various localities and the K-12 education community. Many others posted written support [online](#). These bills were bipartisan unanimous recommendations from the Commission on School Construction and Modernization. VACo thanks Delegate Hudson and Delegate Edmunds for their leadership.

As previously [reported](#), more than half of Virginia schools are 50 years old or older and the cost to replace these buildings is estimated at \$24.8 billion. This problem will continue to deteriorate and negatively impact the students and teachers of the Commonwealth unless the General Assembly takes action to address it or empowers local governments with the financing tools they need to take additional action themselves. Similar bills that have [passed](#) the Senate with bipartisan support await crossover to the House where it is possible, but not yet guaranteed that they will meet a similar fate. VACo will continue to advocate for solutions on this issue for as long as it takes to see it done.

Other bills of interest related to school infrastructure continue their journeys through the General Assembly. On January 26, the House Education Committee's Early Childhood/Innovation Subcommittee met and considered

several bills that were also recommendations of the Commission on School Construction and Modernization. [HB 252 \(Simonds\)](#) would require the Department of Education (VDOE), in consultation with the Department of General Services, to develop or adopt and maintain a data collection tool to assist each school board to determine the relative age of each public school building in the local school division and the amount of maintenance reserve funds that are necessary to restore each such building. The bill would also require local school boards relevant data to VDOE. VACo spoke in support of the bill, which was recommended to be reported to House Appropriations by the subcommittee unanimously 8-0 and is identical to [SB 238 \(McPike\)](#). Data is needed on the issue of aging school infrastructure in order to advocate for policy solutions. Prior to the Commission on School Construction and Modernization, the last time the Commonwealth did a comprehensive analysis of school infrastructure was in 2013.

Additionally, the subcommittee also unanimously recommended [HB 253 \(Simonds\)](#) to be reported and referred to House Appropriations by an 8-0 vote. This bill, which is identical to [SB 471 \(McClellan\)](#), makes several changes to the Literary Fund recommended by the Commission and a [report](#) from VDOE and the Department of Treasury. The Literary Fund provides low-interest loans for school construction, grants under the interest rate subsidy program, debt service for technology funding, and support for the state's share of teacher retirement required by the Standards of Quality. VACo spoke in support of this bill that would increase to \$25 million the maximum Literary Fund loan amount, and permits the Board of Education to increase such maximum to up to \$35 million for loans on any school construction or renovation project that facilitates the consolidation of schools. The bill would also require the Board of Education to fix the interest rate on all loans made from the Literary Fund at not less than 1 percent per year, not more than 3 percent per year, and at increments of one half of 1 percent per year between such minimum and maximum rates, payable annually, and to utilize a sliding scale based on the local school division's composite index of local ability to pay to determine the interest rate on each such loan.

The subcommittee took by for the day [HB 251 \(Simonds\)](#) and [HB 608 \(Bourne\)](#). As previously [reported](#), these bills in their original form are problematic and involve local school boards retaining unexpended locally appropriated funds. VACo is hopeful that the patrons will work to amend the bills to more favorable language by the time they are heard in subcommittee again.

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

# VACo Opposes Bill Overriding Local Authority to Extend Land Use Approvals to July 1, 2023

During the 2020 Special Session, in response to the COVID-19 pandemic, the legislature passed a measure to extend to July 1, 2022, any local land use approvals, including rezonings and special use permits, which were valid as of July 1, 2020. [HB 272 \(Marshall\)](#) and [SB 501 \(Lewis\)](#) arbitrarily extend the life of these expired land use approvals an additional year (to July 1, 2023). VACo supports maintaining local authority to plan and regulate land use and opposes this proposal as it weakens these key local responsibilities.

**ACTION REQUIRED** – Contact your delegate and senator to vote “NO” on HB 272 and SB 501. HB 272 passed in the Counties, Cities and Towns Committee and is now headed to the House floor for further consideration. SB 501 will be heard in [Senate Local Government Committee](#) Monday, January 31, at 9 am.

## KEY POINTS

- Counties successfully adjusted processing of land use applications and building permits in response to the coronavirus pandemic, and local planning commissions and Boards of Supervisors continue to meet and consider rezoning and special use permits.
- Any developer can apply to extend an approval directly with the locality that granted it, many of which have existing criteria and procedures to do so, either administratively or through legislative act.

## KEY CONTACTS

### [HOUSE OF DELEGATES MEMBERS](#)

**[SENATE LOCAL GOVERNMENT COMMITTEE](#)**: [Lewis \(Chair\)](#), [Hanger](#), [Stanley](#), [Favola](#), [DeSteph](#), [Dunnavant](#), [McPike](#), [Howell](#), [Spruill](#), [Morrissey](#), [Bell](#), [Hashmi](#), [Kiggans](#), [Reeves](#), [Hackworth](#)

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

## VITA Bill Threatens Local Cybersecurity Responses

VACo needs your assistance in analyzing the impact of [SB 764 \(Barker\)](#) and [HB 1290 \(Hayes\)](#). We encourage you to consult with your Information Technology

staff and risk insurance providers to analyze the potential impact of these bills to your county.

SB 764 and HB 1290 would require every public body, including local governments, to report to the Chief Information Officer (CIO) of the Commonwealth all known incidents that threaten the security of the Commonwealth's data or communications or result in exposure of data protected by federal or state laws and all other incidents compromising the security of the public body's information technology systems with the potential to cause major disruption to normal activities of the public body or other public bodies. The bills would require such reports to be made to the CIO within 24 hours from when the incident was discovered. These bills were introduced at the request of the Virginia IT Agency ([VITA](#)).

After consultation with Risk Insurance Providers, VACo has concerns that such a mandatory reporting bill would interfere with existing reporting and cybersecurity attack responses provided through [VACoRP](#) or other insurers. These concerns stem primarily from the short reporting time which could coincide with an ongoing cyberattack, the value of the data reported, and the security of said information.

VACo has urged the patrons that a study of this issue involving all relevant stakeholders be conducted to make informed recommendations to the General Assembly.

HB 1290 is docketed to be heard in the House Communications, Technology, and Innovations Committee Monday, January 31 at 10 a.m. Please forward any information on potential impact to [jbennett@vaco.org](mailto:jbennett@vaco.org).

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

## **Cemetery Bills Add Responsibility to Localities**

[HB 615 \(Roem\)](#), which passed a subcommittee of House General Laws and will be recommended to the full committee on February 1, provides that no cemetery owned by a county or city shall be sold to a private owner unless the county or city has made a good faith effort to ensure, prior to sale, that the ownership of such cemetery is vested in the estate of the last owner of record or that permission for the sale has been granted by the family members or descendants of such owner. This may result in an inability for a locality to ever sell the land.

[HB 961 \(Roem\)](#) requires every locality to adopt an ordinance setting forth a register of identified cemeteries, graveyards, or other places of burial located on private property not belonging to any memorial or monumental association. The bill provides that the official local register shall include an official map and that both the register and map shall be available on the locality's website if one exists.

The bill also provides that the governing body shall publish a notice in a newspaper having general circulation in the locality at least two weeks prior to the sale of any property on such registry, or as soon thereafter as possible, and shall also publish the notice on the locality's website if one exists.

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

## Helpful Budget Amendments Introduced

In addition to the requests made by VACo, VML, and partner organizations that were discussed in the [January 21 edition of County Connections](#), a number of helpful budget amendments have been introduced that address county priorities.

VACo appreciates the work of legislators in introducing these proposals and encourages members to contact their legislators, especially those legislators who serve on the [House Appropriations Committee](#) and the [Senate Finance and Appropriations Committee](#), to support items of particular interest.

### **Constitutional officers**

[Item 75 #1h \(Bulova\)/Item 75 #1s \(Norment\)/Item 75 #2s \(Petersen\)](#) provides \$1.4 million GF in FY 2023 and \$2.5 million GF in FY 2024 to restore state support for 154 Compensation Board allocated positions in offices of Commissioners of the Revenue that were previously de-funded due to previous budget reductions. This funding will support the restoration of 65 percent of unfunded positions in FY 2023 and 100 percent of unfunded positions in FY 2024.

[Item 78 #1h \(Brewer\)/Item 78 #1s \(Lucas\)](#) provides \$165,667 GF in FY 2023 and \$180,728 GF in FY 2024 to fully restore underfunded Treasurer positions.

[Item 78 #2s \(Lucas\)](#) provides \$744,176 GF in FY 2023 and \$1.6 million GF in FY 2024 to restore 226 unfunded deputy treasurer positions in treasurers' offices, the state share of which has not been fully funded since 2002.

### **Elections**

[Item 89 #5h \(Webert\)](#) would provide \$500,000 GF per year to reimburse localities for the costs of providing prepaid postage for the return of absentee ballots.

[Item 89 #10h \(Kilgore\)](#) would provide \$2.2 million GF in FY 2023 for the state to provide notice to all registered voters regarding changes to elections districts as a result of redistricting. Due to the renumbering of House and Senate districts, all

voters will need to receive this notice, and if the state does not assume this responsibility, localities will be responsible for these mailing costs.

## **Agriculture**

[Item 98 #9h \(McQuinn\)](#)/[Item 98 #2s \(McClellan\)](#) would provide \$1 million GF per year for the Virginia Food Access Investment Program, which provides loans or grants to assist grocers, farmers markets, and other retailers in high-need areas to expand or commence the operations of their facilities.

## **Commerce and Trade**

[Item 115 #5s \(Edwards\)](#) is a language amendment directing the Department of Housing and Community Development to give priority to Virginia Telecommunication Initiative proposals from public broadband authorities for department awards in connection with the American Rescue Plan Act (ARPA, to use criteria consistent with ARPA and associated U.S. Treasury guidance, and not to require private sector participation in these proposals.

## **Education**

[Item 137 #6h \(Bourne\)](#)/[Item 137 #12h \(Kory\)](#)/[Item 137 #21h \(Reid\)](#)/[Item 137 #9s \(Barker\)](#)/[Item 137 #15s \(McClellan\)](#) provides \$419.2 million GF in FY 2023 and \$430.5 million GF in FY 2024 to eliminate the cap on recognition of support positions in the Standards of Quality.

[Item 137 #2h \(Reid\)](#)/[Item 137 #10s \(Bell\)](#) would provide \$50 million GF in FY 2023 and \$52.5 million GF in FY 2024 to increase the Cost of Competing Adjustment (COCA) for support positions in the school divisions in Planning District 8 (from 18 to 39 percent), and for certain adjacent divisions specified in the Appropriation Act (from 4.5 to 9.75 percent). [Item 137 #4h \(Delaney\)](#)/[Item 137 #11s \(Marsden\)](#) would provide \$15.6 million GF in FY 2023 and \$16.6 million GF in FY 2024 to restore the historic Cost of Competing Adjustment (COCA) rate for support positions in the school divisions in Planning District 8 (from 18 to 24.61 percent) for the adjacent school divisions (from 4.5 to 6.16 percent).

[Item 240 #2h \(Carr\)](#) would provide \$2.5 million GF per year in aid to local public libraries. [Item 240 #1s \(Locke\)](#) and [Item 240 #2s \(Norment\)](#) would provide the \$2.5 million GF per year and also state that it is the objective of the Commonwealth to fully fund the state formula for state aid to local public libraries, with the FY 2023 and FY 2024 funding representing the first two years of a four-year phase-in of full funding, with the goal of completing the phase-in in FY 2026.



## **Finance**

[Item 277 #1s \(Stuart\)](#) would provide \$1 million GF per year in state funding to subsidize local real estate tax relief for disabled veterans and surviving spouses of servicemembers killed in action when more than one percent of a locality's tax base is exempt pursuant to these mandatory exemptions.

## **Health and Human Resources**

[Item 313 #1h \(Sickles\)](#)/[Item 313 #1s \(Hanger\)](#)/[Item 313 #4s \(Deeds\)](#) provides \$167.5 million GF per year for workforce development initiatives for Community Services Boards.

[Item 313 #2h \(Sickles\)](#)/[Item 313 #2s \(Barker\)](#) provides \$2.9 million GF each year in additional funding for Part C Early Intervention services.

[Item 313 #3h \(Coyner\)](#) expands the eligibility of the existing \$3.7 million annual appropriation for discharge planning at jails for individuals with serious mental illness to also include emergency client assistance resources, and expands the number of jails eligible to receive the funds. Current budget language limits receipt of the funds to five jails. [Item 313 #3s \(Deeds\)](#) similarly expands the number of jails eligible to receive the funds.

[Item 313 #5s \(Favola\)](#) provides \$9.3 million GF each year to implement the mental health awareness response and community understanding services (MARCUS) alert system programs and community care teams for CSBs located in Region 2.

[Item 313 #7s \(Ebbin\)](#) would provide \$11 million GF in FY 2024 to expand Crisis Intervention Team Assessment Centers or Crisis Stabilization Units into crisis receiving centers. [Item 486 #23s \(Ebbin\)](#) is intended to provide an additional \$11 million in ARPA funding for this purpose in FY 2023.

[Item 345 #3s \(Mason\)](#) would provide \$180,000 GF/\$60,000 NGF in FY 2023 and \$360,000 GF/\$120,000 NGF in FY 2024 to add slots to the Child Welfare Stipend Program, which assists local departments of social services in recruiting and retaining staff.

## **Public Safety**

[Item 404 #10h \(Wachsmann\)](#) would remove current budget language which exempts the Department of Corrections from the payment of service charges levied in lieu of taxes by local governments and would provide \$1.4 million GF each year to fund these service charges.

[Item 404 #22h \(Runion\)](#) provides \$5 million GF per year for the Department of Corrections to reimburse local and regional jails for the costs of incarcerating

state-responsible inmates; this amendment is a placeholder for related legislation that would provide for compensation at a rate of \$12 per inmate per day for the first 60 days, at the rate of \$40 per inmate per day during the period of more than 60 but not more than 90 days, and for the actual cost of incarceration as calculated in the jail report prepared annually by the Compensation Board for more than 90 days.

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

## Helpful Public Notice Study Bill Passes Senate Rules

[SB 417 \(Stanley\)](#) directs the Virginia Code Commission to convene a work group to review requirements throughout the Code of Virginia for localities to provide public notice for intended actions and events, including (i) the varying frequency for publishing notices in newspapers and other print media, (ii) the number of days required to elapse between the publications of notices, and (iii) the amount of information required to be contained in each notice, and make recommendations for uniformity and efficiency.

The bill was requested by VACo, VML and the Virginia Press Association and will hopefully provide a much-needed vehicle for working towards more uniform and streamlined provisions for providing public notice. The bill requires the Commission to submit a report to the Chairs of the House General Laws Committee and the Senate General Laws and Technology Committee summarizing the work and any recommendations of the work group by November 1, 2022.

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

## Board of Education Local Government Representative Bill Aces Subcommittee

On January 26, the House Education Committee's Early Childhood/Innovation Subcommittee met and unanimously recommended to report by a vote of 8-0 [HB 879 \(Rasoul\)](#). This bill would require the nine-member [Board of Education](#), all of whom are appointed by the Governor, to include at least one member with experience or expertise in local government leadership or policymaking, at least one member with experience or expertise in career and technical education, and at least one member with experience or expertise in early childhood education. Local governments in Virginia [provide](#) the majority of funding for K-12 education as compared to state and federal partners, and fund K-12 education in the

Commonwealth by more than \$4 billion beyond the required local effort. VACo spoke in support of the bill, which give local governments a seat at the table of important education policy making body.

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

## Burdensome FOIA Bill Fails

VACo opposed [HB 599 \(Roem\)](#), 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. The bill failed in a House General Laws Subcommittee and therefore should be done for the session.

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

## 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](#)