

Capitol Contact

Virginia General Assembly

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Tuesday, February 15, 2022

Grocery Tax Bills Move Forward in Different Forms

On Thursday evening, February 10, the Senate Finance and Appropriations Committee advanced a new substitute for [SB 451 \(Boysko\)](#), which passed the Senate today by a vote of 37-3. The key provisions of the bill as reported by the Committee are as follows:

- It would eliminate the 1.5 percent state portion of the sales and use tax on groceries (food for human consumption and essential personal hygiene products), effective January 1, 2023.
- It would leave the local option 1 percent imposed on groceries intact.
- It would provide for replacement revenue for the 1 percent that is currently distributed to counties and cities based on school-age population via statutory language that requires a distribution to cities and counties in an amount equal to the revenue that would have been distributed under the current school-age population distribution.
- It would not replace the 0.5 percent that is dedicated to the Commonwealth Transportation Fund.

On Friday evening, February 11, the House Appropriations Committee reported its version of [HB 90 \(McNamara\)](#). The revised version passed the House today by a vote of 80-20. As reported by the Committee, the key provisions of the bill are as follows:

- It would eliminate both the 1.5 percent state portion and the 1 percent local option portion of the sales and use tax on groceries (food for human consumption and essential personal hygiene products), effective July 1, 2022.
- As a replacement for the revenue loss from the 1 percent local option, it would provide for a supplemental school payment that would be derived from 0.182 percent of the state’s portion of the sales and use tax.
 - Beginning on July 1, 2022, and before July 1, 2024, this payment will be based on each city and county’s estimated average share of monthly distributions of the local option sales tax that is attributable to grocery sales between February 2020 and December 2021.
 - Beginning July 1, 2024, this payment would be based on each city and county’s pro rata share of local option sales and use tax collections.
 - Beginning October 1, 2025, the Department of Taxation is directed to make an annual review of the distributions beginning July 1, 2024, and make any necessary adjustments in accordance with the procedures under § 58.1-605 (current Code language sets out a process for the correction of errors or otherwise necessary adjustments, “whether attributable to refunds to taxpayers, or to some other fact”).
- It does not provide in statute for replacement of the 1 percent school-age population distribution. However, it was indicated at the February 11 House Appropriations meeting that the school-age population revenue loss would be replaced in the budget, similar to the introduced budget bill.
- It would not replace the 0.5 percent that is dedicated to the Commonwealth Transportation Fund.

VACo is appreciative that both Committees have expressed an intention to keep localities whole for revenue losses associated with the 1 percent local option and the 1 percent school-age population distribution. VACo continues to favor revenue replacement via a direct distribution to localities in statute, with a mechanism that allows for future revenue growth. Addressing the lost revenue solely through an appropriation in the budget each year is not an adequate replacement for these dollars, as it will be vulnerable to caps or reductions in future years. VACo also supports an approach that retains local discretion over revenue replacement for the 1 percent local option, rather than an approach that would characterize the replacement revenues as payments for K-12 needs.

VACo Contact: [Katie Boyle](#)

Bill Requiring Increased Retirement Contribution for Deputy Sheriffs Passes Senate

[SB 507 \(Lewis\)](#) as originally introduced would have required local governments prospectively electing enhanced retirement benefits to use the 1.85 percent multiplier for determining the annual retirement allowance for local law enforcement officers receiving benefits similar to those provided to State Police officers. Currently, local governments may elect to provide a 1.7 percent multiplier in lieu of the 1.85 percent multiplier. According to the [fiscal impact statement](#) from the Commission on Local Government, of the localities which did report a negative fiscal impact, the cost stems from increases in employer payments towards impacted employees' retirement, due to the increase in employer contribution rates. Several localities reported this fiscal impact would increase over time, as the retirement population of the covered employees increased.

On February 9, SB 507 was heard by the Senate Finance and Appropriations Committee. The legislation was amended to only apply to deputy sheriff positions and to have a delayed enactment of July 1, 2023. Though VACo still has concerns about the legislation's fiscal impact, an opportunity for public testimony was not given and the bill was reported by the Committee on a unanimous vote of 15-0. The bill has subsequently passed the Senate 40-0.

According to the Virginia Retirement System (VRS), of political subdivision employers in VRS, 120 are cities and counties that have deputy sheriffs. Of those, 56 cities and counties already provide the 1.85% multiplier, as shown below. This accounts for about 61.5% of the deputy sheriffs.

The remaining 64 cities and counties with deputy sheriffs would be required to increase from the 1.70% to the 1.85% multiplier for their deputy sheriffs only. This accounts for about 38.5% of the total number of deputy sheriffs.

Enhanced Coverage Elected	Number of Employers	Number of Deputy Sheriffs
1.70% Multiplier	64	2,897
1.85% Multiplier	56	4,638
Total	120	7,535

While this bill has not yet been assigned to a committee in the House, it is very likely that the bill will be referred to the House Appropriations Committee's [Compensation and Retirement Subcommittee](#). Similar bills that have been referred to this committee have been referred to the Joint Legislative Audit and Review Commission (JLARC), which will be conducting a two-year study of state and local hazardous duty benefits, examining whether benefits should be increased and if additional categories of employees should be added to both state

and local hazardous duty categories. If your county has concerns over the fiscal impact of this legislation, VACo encourages you to reach out to members of the subcommittee.

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

Local Flexibility in Marcus Alert Implementation Advances in Different Versions

Two companion bills, [HB 1191 \(Ransone\)](#) and [SB 361 \(Stuart\)](#), are moving forward, although the bills are in different postures after action by the House Public Safety Committee and the full Senate, respectively.

As introduced, both bills would have made implementation of the Marcus Alert system an option for all localities. Under current law, every locality must meet a July 1, 2022, deadline to establish local protocols for transferring calls from 911 to the 988 regional call centers (these protocols must integrate a framework to triage urgency that was developed by a statewide working group in 2021), protocols for law enforcement who will serve as backup to regional mobile crisis teams, and protocols for a specialized response from law enforcement when responding to a behavioral health emergency. Localities must also outline their plans for achieving community coverage through the four-level urgency framework, with some localities expected to rely on mobile crisis teams developed through the Department of Behavioral Health and Developmental Services and deployed on a regional basis, while others may provide additional teams to ensure faster response times. The first five Community Services Boards were required to implement protocols and ensure community coverage by December 1, 2021, with the following five areas implementing community coverage by July 1, 2023, and additional areas implementing in 2024, 2025, and 2026, with statewide coverage achieved by July 1, 2026.

As amended in a Senate subcommittee, SB 361 would have allowed localities with populations of 80,000 or less to opt out of participation in the Marcus Alert system. As further amended on the Senate floor and subsequently passed by the Senate, SB 361 now allows this flexibility for localities with populations of 40,000 or less, and extends the deadline for completion of statewide coverage from 2026 to 2028.

In the House, HB 1191 was heard in a subcommittee of the Public Safety subcommittee on Thursday morning, February 10, and amended to provide a one-year implementation delay for all localities, and an additional year of delay for localities with populations of 40,000 or less. The bill also directs the Department of Behavioral Health and Developmental Services to report annually on the implementation of the Marcus Alert system, to include a description of barriers to establishment of Marcus Alert programs and plans to address those

barriers. An additional enactment clause directs the Department of Behavioral Health and Developmental Services and the Department of Criminal Justice Services to convene a work group with representatives of localities with populations of 40,000 or less to identify barriers to establishment and implementation of Marcus Alert programs. HB 1191 now moves to the House floor.

VACo supports additional flexibility for local implementation of this complex initiative and spoke in favor of both bills.

VACo Contact: [Katie Boyle](#)

Recordation Tax Distribution and Other Legislation Impacting Transportation Funding

As the General Assembly races towards crossover and the release of the House and Senate versions of the biennial budget, legislation seeking to roll back the 2020 [reforms](#) to the Commonwealth Transportation Fund is meeting mixed fates.

[HB 978 \(Durant\)](#) would reestablish the distribution of \$20 million of state recordation tax revenue to counties and cities to be used for transportation or public education purposes. The bill was reported and referred to the House Appropriations Committee by the House Finance Committee, 12-9, on February 2. Legislation enacted by the 2020 General Assembly included changes to the distribution of state recordation tax revenues to cities and counties that effectively eliminated \$20 million in existing recordation tax revenues distributed to cities and counties. These revenues were instead redirected to support Hampton Roads Regional Transit. This funding was distributed quarterly and could be used by counties and cities for either transportation or public education (K-12) purposes. Prior to the 2020 General Assembly session, a portion of recordation tax revenues had been distributed to localities since 1993 and localities had direct control over the transportation and education use of these funds. VACo supports a solution whereby these funds could be restored to localities while also holding Hampton Roads Transit harmless, as was the case with several member budget amendments during the 2021 session. Delegate Durant has introduced an accompanying budget [amendment](#) to achieve this end. In the Senate, [SB 363 \(Stuart\)](#) and [SB 512 \(Suetterlein\)](#) were passed by indefinitely by Senate Finance on a vote of 12-4.

[HB 1144 \(Webert\)](#) and [SB 541 \(Peake\)](#) as introduced, would lower the rate of tax on gasoline and diesel fuel on July 1, 2022 by five cents, from 26.2 cents per gallon to 21.2 cents per gallon on gasoline and from 27 cents per gallon to 20.2 cents per gallon on diesel fuel, the rates that were in effect before July 1, 2021. The bills provide that the rate of tax on gasoline and diesel fuel will return to 26.2 and 27 cents per gallon, respectively, on July 1, 2023, and will be indexed based

on the change in the United States Average Consumer Price Index; thereafter, the rate will be indexed annually. If enacted, these bills would likely have an estimated impact of approximately \$200 million in reduced revenues to the Commonwealth Transportation fund, as each penny of gas tax roughly equates to \$40-\$50 million in revenue. HB 1144 was reported by the House Appropriations Committee on a vote of 10-8 and awaits action by the full House. SB 541 was passed by indefinitely by the Senate Finance and Appropriations Committee on a vote of 12-4.

[HB 297 \(McNamara\)](#), would suspend the imposition of any regional fuels tax in the Commonwealth on and after July 1, 2022, but before July 1, 2023. This would likely have a multi-million-dollar impact on the Construction District Grant Program and would impact dedicated revenues for use by localities not located in the regional transportation districts of Northern Virginia, Hampton Roads, Central Virginia, and the I-81 corridor. The bill has been referred to the House Finance Committee, however as this committee is unlikely to meet before crossover, the bill will likely be left in committee, effectively ending its journey towards enactment.

[HB 1059 \(Cordoza\)](#) would suspend the imposition and collection of state and regional taxes on gasoline and diesel fuel until July 1, 2023. This bill would likewise have a multi-million-dollar impact on transportation revenues. The bill was unanimously laid on the table by the House Finance Committee on a vote of 20-0.

Lastly, as reported by [VACo elsewhere](#), the two versions of grocery tax bills [SB 451 \(Boysko\)](#) and [HB 90 \(McNamara\)](#) do not replace the 0.5 percent portion of the tax that is dedicated to the Commonwealth Transportation Fund. This would lead to revenue loss of \$186.5 million to \$250 million over the next two years, depending on whether the tax is repealed on July 1, as in the House version, or January 1, 2023, in the Senate bill.

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

Update on Legislation Seeking to Reduce Law Enforcement Involvement in Mental Health Transports

A series of bills were introduced this session that intend to relieve the pressure on law enforcement associated with the emergency custody order and temporary detention order process by allowing for additional usage of alternative transportation and alternative custody arrangements. As the legislature approaches crossover, three Senate bills are on the way to the House.

[HB 1147 \(Bell\)](#), the sole House bill that was reported from House Appropriations, as introduced provides that if the facility indicated on a temporary detention order is a state facility and no bed is immediately available, an employee or designee of the state facility who is available may assume custody of the person and transport the person to the state facility or to an alternative facility of temporary detention. The bill provides that an employee or designee is deemed to be unavailable if all state funds for alternative custody have been expended; in that situation, the person would remain in law enforcement custody until custody is transferred to the state facility or alternative facility. This bill was reported to the floor from House Appropriations after being reported from the Courts of Justice Committee, but was sent back to Courts of Justice for further amendment and has not reported back to the floor as of February 15.

[SB 202 \(Newman\)](#), which has passed the Senate, directs the Secretary of Health and Human Resources and the Secretary of Public Safety and Homeland Security to study options to increase the use of alternative custody arrangements for individuals who are subject to an emergency custody or temporary detention order. This bill has passed the Senate.

[SB 268 \(Favola\)](#), as reported by the Senate Education and Health Committee and Senate Finance and Appropriations Committee, now incorporates similar measures by Senators Peake, Hanger, and Deeds; the bill was further amended on the Senate floor. As passed by the Senate, the bill directs the magistrate or court issuing an emergency custody order to consider all options for alternative transportation in determining a transportation provider, and allows an employee or contractor of the Department of Behavioral Health and Developmental Services (DBHDS) to be an alternative transportation provider. If no alternative transportation provider is available, willing, and able to provide transportation in a safe manner, the magistrate or court must designate the primary law-enforcement agency and jurisdiction designated to execute the emergency custody order. The bill allows law enforcement to transfer custody to the alternative transportation provider upon execution of an emergency custody order (ECO) or temporary detention order (TDO). The bill allows a designee of a state facility to take custody of an individual subject to a TDO and provide transportation to the designated temporary detention facility. The bill also directs DBHDS to amend its existing contract for alternative transportation or enter into new contracts to ensure sufficient availability of alternative transportation providers, until state funds have been expended.

[SB 593 \(Newman\)](#) provides that auxiliary police officers who have met training standards established by the Department of Criminal Justice Services may execute emergency custody orders and provide transportation for a person subject to an emergency custody or temporary detention order. The bill includes similar provisions regarding the transfer of custody by law enforcement to an alternative transportation provider to the language of SB 268. This bill has also passed the Senate.

A key issue in consideration of these bills will be the availability of funding. The introduced budget includes \$1.9 million General Funds per year to cover costs associated with the current alternative transportation contract so that 24/7 coverage can be provided on a statewide basis. The budget also contains a proposed \$3.4 million GF in FY 2024 to fund a plan to increase alternative custody options for individuals under a TDO who are awaiting transportation to an inpatient bed; budget language directs DBHDS to develop this plan.

A related measure, [SB 119 \(Hanger\)](#), also addresses the temporary detention order process and requires consultation and the disclosure of relevant information between a treating physician or his/her designee and the employee or designee of the local community services board in any case in which a person subject to an evaluation is receiving services in a hospital emergency department. This bill has also passed the Senate. Two bills that would use the Certificate of Public Need process to encourage the development of additional inpatient psychiatric capacity were carried over in House Courts of Justice and Senate Education and Health, respectively. [HB 743 \(Bell\)](#) and [SB 293 \(Deeds\)](#) would require the Commissioner of Health to exclude the availability of an existing inpatient psychiatric service or facilities in the area when determining whether a public need exists for a project involving the provision of inpatient psychiatric services or an inpatient psychiatric facility, if the existing facilities do not serve an adequate number of individuals who are subject to temporary detention orders.

VACo Contact: [Katie Boyle](#)

K-12 Staff Salary Bills Tabled for the Year

Two bills that would impact the compensation of K-12 staff positions have been defeated in each body of the legislature. [SB 157 \(Hashmi\)](#) expands on code language added in 2020 that it is the goal of the Commonwealth that public school teachers be compensated at a rate that is competitive in order to attract and keep highly qualified teachers. As defined in code, competitive means at or above the national average teacher salary. The bill would have expanded this goal to include all other individuals employed in Standards of Quality (SOQ) funded positions. It would also have stipulated that pursuant to the general appropriations act, state funding should be provided to fund a five percent annual pay increase for each individual employed in a SOQ-funded position effective from the 2023-24 school year through the 2027-28 school year. Local access to these state funds would be contingent upon matching requirements under each local school boards composite index of local ability to pay (LCI). The bill was continued to 2023 by the Senate Finance and Appropriations Committee, who also referred the bill to the Joint Legislative Audit and Review Commission (JLARC), which is currently conducting a [study](#) of the costs of education. VACo has had conversations with JLARC staff on this issue and stands by ready to provide additional assistance.

[HB 535 \(Clark\)](#) would have removed the aspirational language currently contained in code and would have required the Commonwealth to provide a 4.5 percent annual pay increase for public school teacher salaries effective from the 2023-24 school year through the 2027-28 school year. The House Education K-12 Subcommittee voted 5-3 to lay this bill on the table.

The introduced budget [proposal](#) stipulates that the state will provide the state share of up to a 5 percent salary increase effective July 1, 2022, to school divisions that certify to the Department of Education that an equivalent increase will be provided to instructional and support personnel the first year. Sufficient funds are appropriated in this act to finance, on a statewide basis, the state share of up to an additional 5 percent salary increase effective July 1, 2023, to school divisions that certify to the Department of Education that an equivalent increase will be provided to instructional and support personnel the second year. In order to access these funds in FY 2023, a school division must provide at least an average 2.5 percent salary increase the first year. In order to access these funds in FY 2024, a school division must provide at least an average 2.5 percent salary increase the first year and at least an additional average 2.5 percent salary increase the second year.

Under the current K-12 compensation funding formulas, some local governments would face potential [costs](#) in excess of \$100 million in order to provide the local share of these compensation increases to access the full state funding available. Every school division in Virginia operates above the SOQ allocations of staff and any additional staff above the SOQ formula are funded 100% by the locality. As previously [reported](#), VACo supports voluntary incentives that encourage localities to increase teacher salaries to reflect the national average in compensation, as long as this is done without a required minimum local match. Former VACo President Jeff McKay [reiterated](#) this point during the 2021 General Assembly session.

As such, at VACo's request, the following budget amendments ([Item 137 #10h \(Watts\)](#), [Item 137 #2s \(Marsden\)](#), and [Item 137 #8s \(Ebbin\)](#)) have been introduced to remove the requirement in the introduced budget for school divisions to provide at least an average 2.5 percent salary increase in each year of the biennium in order to access the state share of the 5 percent compensation supplement that is proposed for each year of the biennium. With the removal of this language, school divisions could provide the local share of up to a 5 percent salary increase in each year of the biennium without having to meet a minimum threshold to access the state share. VACo encourages members to advocate to Money Committee members for the inclusion of this language in the House and Senate budget proposals.

The issue of teacher compensation will continue to be discussed as long as Virginia continues to face a shortage of educators entering in and remaining in the Commonwealth's schools and the average teacher salary lags the national

average. As local governments invest approximately \$4.4 billion beyond their required local effort and provide the majority (55%) of overall K-12 funding, the General Assembly must provide additional aid on this effort while preserving maximum flexibility for local governments.

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

Legislation to Change Full Tax Exemption to Partial Tax Exemption for Smaller Utility-Scale Solar Projects Advances

Under current law utility-scale solar facilities with a rated capacity of 5 megawatts (MW) or less, are fully exempt from local taxation. [SB 502 \(Lewis\)](#) and [HB 1087 \(Leftwich\)](#) modify this mandated exemption by providing an 80% exemption for the first 5 years of operation; 70% exemption for years 6-10; and 60% exemption for years 11 and beyond. Both bills have passed their respective chambers. This change in the mandated exemption makes it the same as is currently applied to projects greater than 5 MW and less than 150 MW (NOTE: there is no state mandated exemption from local taxation for projects 150 MW or more in rated capacity).

The legislation also stipulates that (1) tax on the solar equipment shall not exceed the applicable real estate rate; (2) if a locality has adopted a revenue share ordinance (aka energy tax of \$1,400 annually per MW) then it applies to projects 5 MW or less in lieu of partial tax exemption; and (3) the provisions of this new law shall not apply to any projects 5 MW or less that were approved by a locality prior to July 1, 2022.

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

Legislation to Plan for Reinvention of Catawba Hospital Moving Forward

[HB 105 \(Rasoul\)](#), which directs a feasibility study for the transformation of Catawba Hospital into a facility that would offer a continuum of substance use disorder treatment and recovery services, has passed the House and awaits action in the Senate. The bill is supported by a large coalition of stakeholders in the region, and VACo spoke in favor of the bill on February 7 when it was heard by a subcommittee of House Appropriations. The bill seeks to address the need for additional substance use disorder services in the region, a need which has grown more acute during the pandemic; Roanoke County Supervisor Phil North provided testimony to House Rules and to House Appropriations regarding the

large increase in overdoses reported in 2021. As envisioned in the study directive, the Department of General Services, in cooperation with the Department of Behavioral Health and Developmental Services, would be directed to study the feasibility of transforming Catawba Hospital into a facility that would offer long-term, short-term, acute, and outpatient substance use disorder treatment and recovery services, in addition to the behavioral health and other services the hospital currently provides; Catawba Hospital currently specializes in geriatric behavioral health care. A companion budget amendment seeks \$3.5 million to fund the study.

VACo Contact: [Katie Boyle](#)

Bill Mandating Exclusion of Rooftop Solar from Real Property Assessments Fails on House Floor

A bill mandating that rooftop solar installations be exempt from local taxation failed on the House of Delegates floor last Friday. [HB 1185 \(Bourne\)](#), which would have mandated that any rooftop or ground-mounted solar installations, serving just the energy needs of the property to which they are located (i.e., behind the meter), shall be a separate class of property and entirely exempt from local real estate taxes, failed to pass. Although the bill passed in House Finance by a vote of 18-4, Delegate Rob Bloxom [spoke in opposition](#) noting “The locality can do this today if they chose to ... We are giving away someone else’s money ...We need to leave this to the locality and not deal with their revenue stream.”

A similar bill, [SB 686 \(Mason\)](#), passed the Senate and will be headed to the House upon crossover.

KEY POINTS

- Local governments under current law can exempt rooftop and ground-mounted solar, as improvements to real property, wholly or partially from local real estate tax.
- Any locality that does not currently provide a full tax exemption to such improvements to real property will see a reduction in revenue.
- When making sound fiscal policy regarding available revenue to meet expenditures in service to their community, VACo supports maintaining a locality’s flexibility to decide if such improvements should be wholly or partially exempt from local taxation.

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

Enhanced Retirement Benefit Bills Referred to JLARC

[HB 131 \(Cherry\)](#), [HB 854 \(Reid\)](#), and [SB 585 \(Reeves\)](#), as originally written would have added 911 dispatchers to the list of local employees eligible to receive enhanced retirement benefits for hazardous duty service. Under current law, local governments may provide such benefits to first responders, including firefighters and emergency medical technicians, and certain other hazardous duty positions. The bills would combine full-time salaried firefighters, full-time salaried emergency medical technicians, and full-time dispatchers for a public safety answering point as defined in §56-484.12 into a new definition of “first responder.” By combining these positions into one definition, it would require employers that are electing enhanced hazardous duty benefits going forward to elect them for all of these positions or none of them.

Though not opposed to the intent of the legislation, VACo expressed concerns to the patrons and worked with them to provide language that would preserve the local option to offer these benefits and decouple 911 dispatchers from the other first responder employee categories. This would preserve maximum local flexibility while still allowing local governments to offer these benefits if they so choose. VACo is grateful for the work of the patrons and their responsiveness to our concerns.

HB 131 and HB 854 were heard by the House Appropriations Committee’s Compensation and Retirement Subcommittee on February 2 and by a 5-2 vote recommended laying the bills on the table referring them to the Joint Legislative Audit and Review Commission (JLARC), which will be conducting a two-year study of state and local hazardous duty benefits, examining whether benefits should be increased and if additional categories of employees should be added to both state and local hazardous duty categories. SB 585 was heard by the Senate Finance and Appropriations Committee on February 9, which voted unanimously 15-0 to carry the bill over to 2023 and also refer the bill to JLARC.

Two other bills would have added categories of employees to those eligible to be provided enhanced retirement benefits. [HB 56 \(Wiley\)](#) as originally written would have required local governments to provide enhanced retirement benefits to Juvenile Detention Specialists. [HB 162 \(Runion\)](#) would have added animal control officers to the list of employees that local governments may provide enhanced retirement benefits for hazardous duty service. Both bills were recommended to be lain on the table by the House Appropriations Subcommittee on Compensation and Retirement on January 27 by a unanimous vote of 7-0.

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

Legislation to Authorize Recalls by Referendum Passes Senate; Fate Uncertain in House

[SB 495 \(McClellan\)](#), which would significantly revise the current process for removal of public officers from office, has passed the Senate. A companion measure, [HB 972 \(Simon\)](#), has not been heard in the House and is unlikely to be taken up before crossover.

Under current law, office is forfeited for a felony conviction or offense requiring registration on the Sex Offender and Crimes Against Minors Registry, and an office is deemed vacant when an officeholder is determined to be incapacitated by a judicial proceeding. In addition, a circuit court may remove any elected officer or officer who has been appointed to fill an elective office, a process that is triggered by receipt of a petition that must be signed by a number of registered voters representing 10 percent of the total number of votes cast at the last election for the office. Grounds for removal include neglect of duty, misuse of office, incompetence in the performance of duties when that neglect, misuse of office, incompetence has a material adverse effect; conviction of a misdemeanor involving certain drug offenses; conviction of a hate crime when the conviction has a material adverse effect upon the conduct of the office; and conviction of certain sex crimes. An appointed officer may be removed upon a petition to the circuit court signed by the person or a majority of the members who appointed the officer. When the petition for removal is filed with the court, the court must issue a rule requiring the officer to show cause as to why he should not be removed. The case is tried (the officer may demand a trial by jury), with the Commonwealth's attorney representing the Commonwealth. If the officer is determined to be subject to removal, he or she is removed from office. The court's decision is appealable to the Court of Appeals.

Under SB 495, appointed officers would be subject to the same process for removal as in current Code. In a departure from current practice, SB 495 would provide for a recall by referendum for elected officials, rather than via a judicial process. For elected officers and officers appointed to fill an elective office, a vacancy occurs when a person is determined to be incapacitated by a judicial proceeding; an officer is also subject to recall upon a petition signed by a number of qualified voters equal to 30 percent of the total number of votes cast at the last election for the office. The grounds for recall would be conviction of a crime against a locality served by the office that occurred during the official's term of office, or conviction of a felony or an offense requiring registration as a sex offender.

The bill outlines the following process for a recall:

- In order to begin the recall referendum process, a person must apply to the general registrar to circulate a recall petition.

- To file an application, at least 100 official sponsors, or 10 percent of the number of individuals who voted in the last election for the office, are required, and a recall petition application cannot be submitted during the first 180 days or the last 180 days of the officer’s term.
- The registrar must notify the public officer and determine the legal sufficiency of the application and veracity of the grounds for recall. Upon certifying the application, the registrar shall issue official recall petition forms and notify the public officer.
- A completed recall petition (meeting the 30 percent threshold discussed above) is to be filed with the general registrar.
- Upon determination of the sufficiency of the petition, the registrar must notify the petition chairman and public officer and file certification with the circuit court.
- Within five days of certification of the sufficiency of the petition for recall, the court must order election officials to conduct a recall referendum. The referendum must be held not less than 90 days not more than 150 days from the date of the order.
- If the majority of votes are for recall and removal, the office becomes vacant. If a majority votes against recall and removal, the officer would continue in office and is not subject to another referendum for recall on the same grounds.

VACo Contact: [Katie Boyle](#)

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](#)