

Capitol Contact

Virginia General Assembly

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Tuesday, February 22, 2022

Bill to Address Impacts to Farm and Forest Land Due to Large Scale Solar Projects Passes House

[HB 206 \(Webert\)](#), if adopted, would require the Department of Environmental Quality (DEQ) to include an analysis of impacts to prime agricultural soils and forestlands when reviewing applications for utility-scale solar installations under its [Permit-by-Rule \(PBR\)](#) process. The bill passed the House of Delegates 67-32 and will likely be heard in [Senate Agriculture, Conservation and Natural Resources](#) on March 1. **VACo supports HB 206.**

Action Required – Contact members of [Senate Agriculture, Conservation and Natural Resources](#) to vote “YES” on HB 206.

Under current law adverse impacts to wildlife and historic resources require review by DEQ for such permits. If HB 206 becomes law, applicants would also need to demonstrate “reasonable actions” taken to “avoid, minimize, or otherwise mitigate such impacts, and to measure the efficacy of those actions” for “significant adverse impacts” to farm and forestlands.

The legislation specifies the types of farms and forestland to be considered is this review...

For purposes of this subdivision, "prime agricultural soils" means soils recognized as prime farmland by the U.S. Department of Agriculture and "forest land" has the same meaning as provided in § [10.1-1178](#), except that any parcel shall be considered to be forest lands if it was forested at least two years prior to the Department's receipt of a permit application. A project will be deemed to have a significant adverse impact if it would disturb more than 10 acres of prime agricultural soils or 50 acres of contiguous forest lands, if it would disturb forest lands enrolled in a program for forestry preservation pursuant to subdivision 2 of § [58.1-3233](#), or if it meets any other

threshold for a significant adverse impact as the Department may establish via regulation.

The bill would not apply to any applications received by DEQ prior to the adoption of regulations to incorporate the additional analysis of impacts to farm and forestlands, or by December 31, 2024, whichever comes first.

KEY POINTS

- VACo supports energy policies that reduce greenhouse gas emissions while taking into consideration the protection and preservation of agriculture and forestry.
- HB 206 provides reasonable and prudent measures to ensure that utility-scale solar projects do not significantly harm the farm and forestry assets of rural localities.

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

Bills to Improve Collection of Taxes for Short-Term Rentals Moving Forward

[HB 518 \(Head\)](#) and [SB 651 \(Vogel\)](#) revisit and refine legislation from 2021 that required that taxes due on a sale of transient accommodation be calculated based on the total charges paid by the customer, including any accommodations fee charged by an accommodations intermediary. HB 518 and SB 651 make clear that the room charge upon which taxes are to be levied includes any fee charged to the customer and retained as compensation for facilitating the sale, whether described as an accommodations fee or by some other name. The bills require accommodations intermediaries to collect sales and use taxes and transient occupancy taxes and remit them to the Department of Taxation and the locality, respectively. To improve the ability of local Commissioners of the Revenue and other local staff to correctly attribute payments, the bills require accommodations intermediaries to submit to each locality on a monthly basis the property addresses and gross receipts for all accommodations facilitated by the intermediary in the locality.

In order to address industry concerns about variation among localities in collection practices, the bills direct the Department of Taxation to convene a work group to examine the processes currently used to collect local transient occupancy taxes and make recommendations for improvements. A report is due by October 31.

VACo supports these bills as amended. HB 518 has passed the House and Senate and the House has agreed to the Senate's amendments. SB 651 has passed the Senate and has been referred to House Finance.

VACo Contact: [Katie Boyle](#)

Legislation Impacting Collective Bargaining Defeated

On February 21, three bills engrossed by the House of Delegates that would impact the ability of local governments to enter in collective bargaining agreements with union or employee representatives were passed by indefinitely in the Senate Commerce and Labor Committee on votes of 12-3. As previously [reported](#), enacted legislation from the 2020 session permits Counties, Cities, Towns, and School Boards to allow their employees to engage in collective bargaining via ordinance or resolution, but still excludes constitutional officers and their employees. Any such ordinance or resolution authorizing collective bargaining would be required to provide a process for the certification and decertification of exclusive bargaining representatives but is otherwise very permissive and provides flexibility to local governments to determine the best processes for their communities. The following bills defeated in committee on February 21 would have imposed additional conditions or clarifications on this process:

[HB 336 \(Freitas\)](#), as originally drafted, would provide that for a bargaining representative to be certified as an exclusive representative, at least 51 percent of the public employees in a collective bargaining unit must vote for certification of the bargaining representative through a secret ballot election conducted by the governing body of the locality, and a secret ballot election shall be conducted every two years to confirm majority support for the bargaining representative. This certification requirement would also apply to preexisting bargaining representatives. The bill also provided definitions of bargaining representatives, collective bargaining units, elections, and employee associations.

[HB 337 \(Freitas\)](#) would prohibit any employer of public employees authorized to engage in collective bargaining from entering into a collective bargaining agreement to compensate any public employee or third party for an employee organization's or union's activities. Further, if a union's activities infringe on an employer's time and resources, the union must compensate the employer at a fair market value rate. The bill provided for enforcement by the Attorney General and created a cause of action for public employees to remedy potential violations. The provisions of the bill would preempt inconsistent local laws and regulations.

[HB 883 \(Byron\)](#) would remove the authority for a locality, by a local ordinance or resolution, to recognize any labor union or other employee association as a

bargaining agent of any public officers or employees or to collectively bargain or enter into any collective bargaining contract with any such union or association or its agents. The bill would impose additional conditions on procurement practices for state agencies.

The fate of these three bills follows similar actions by the Senate Commerce and Labor Committee on January 31 to pass by indefinitely on identical votes of 12-3 two bills that would impose additional conditions on collective bargaining agreements or public employee union activities. [SB 374 \(Obenshain\)](#) would repeal the requirement that (i) that contractors and subcontractors under any public contract with a state agency or certain localities to pay the prevailing wage rate; (ii) authorize any public body, when engaged in procuring products or services or letting contracts for construction, manufacture, maintenance, or operation of public works, to require bidders to enter into or adhere to project labor agreements on the public works projects; and (iii) authorize a locality to recognize any labor union or other employee association as a bargaining agent of any public officers or employees or to collectively bargain or enter into any collective bargaining contract with any such union or association or its agents. [SB 721 \(Obenshain\)](#) would require consent by public employees authorized to engage in collective bargaining before union or employee association dues are deducted from the employees' pay directly by their employers. The bill also would allow public employees to stop paying union or employee association dues at any time and gives public employees an annual opportunity to reconfirm that they want to continue union or employee association membership and pay such dues.

These actions, coupled with [another](#) taken by the Senate Commerce and Labor Committee on January 17, effectively end legislative efforts on the issue of collective bargaining for this session.

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

Money Committees Report Budgets

The House Appropriations and Senate Finance and Appropriations Committees met on Sunday, February 20, and reported their respective amendments to the introduced budget. Preliminary information on the proposed amendments was made available to the public on Sunday, with the actual text of budget amendments to be unveiled on Tuesday, February 22. The full House and Senate will vote on the proposed budgets on Thursday, February 24.

The two budgets differ significantly in their available revenues, as the House budget includes several tax proposals that the Senate has opted to defer or to advance in scaled-back form, such as elimination of the grocery tax (the Senate retains the 1 percent local option), doubling of the standard deduction (the Senate carried over its version for study), and an income tax subtraction for

military retirement (the Senate 's legislation would allow a smaller subtraction). House Appropriations Committee Chairman Barry Knight outlined the priorities for the House budget in his opening remarks, including enhancing reserves and ensuring structural integrity for the budget, providing tax relief, assisting localities with K-12 needs and school improvements, supporting strategic investments in health and human services, improving college affordability, and providing employee compensation increases. Senate Finance and Appropriations Chair Janet Howell emphasized the Senate budget's focus on meeting previously-deferred spending commitments and obligations, citing the budget's investments in education, natural resources, public safety, and human services.

VACo staff will be reviewing the full text of budget amendments when they are released on Tuesday. A preliminary overview of the key features of the two committee budgets, based on information provided on Sunday, follows below.

K-12

House Appropriations

- Sets up a School Construction Loan Rebate Program with \$291.7 million GF and \$250 million from the Literary Fund.
- Provides funding for the state share of one full-time principal position for each elementary school.
- Provides funding for the state share of one assistant principal position per every 500 students.
- Repurposes proposed funding in the introduced budget to expand Early Reading Intervention to additional grades to instead provide one reading specialist for every 550 students in kindergarten through third grade.
- Provides \$150 million GF in FY 2023 to support College Partnership Laboratory Schools.

Senate Finance and Appropriations

- Retains \$500 million school construction and modernization appropriation in introduced budget. Information provided Sunday indicates that each division would receive a base allocation of \$1 million, with the remaining funds allocated based on average daily membership, weighted by the Local Composite Index.
- Increases state funding for support positions from its current level of 17.75 support positions per 1000 students to 20 positions in the first year and 21 positions in the second year.
- Funds one reading specialist per every 550 students.
- Uses \$15 million in ARPA funds for teacher recruitment incentive payments.

Compensation

House Appropriations

- Instead of the 5 percent salary increase proposed in the introduced budget in each year of the biennium for funded SOQ instructional and support positions, proposes a 4 percent increase in each year of the biennium, along with a 1 percent bonus in each year of the biennium.
- Instead of the 5 percent salary increase proposed in the introduced budget in each year of the biennium for Constitutional officers and state-supported local employees, provides a 4 percent increase in each year of the biennium. Also proposes a 1 percent bonus in each year of the biennium for Constitutional officers and state-supported local employees. Employees receiving targeted salary increases in excess of 7.5 percent in FY 2023 are excluded from the first year salary increase and bonus.

Senate Finance and Appropriations

- Retains salary increase proposal for funded SOQ instructional and support staff from the introduced budget. Uses \$137 million in American Rescue Plan Act funding to provide instructional and support staff with a bonus of approximately \$1000 in June, with no local match required.
- Retains salary increase proposal for state employees and state-supported local employees. Includes a \$1000 bonus for state employees.

Public Safety

House Appropriations

- Directs \$100 million in ARPA funds for one-time grants to state and local law enforcement agencies for training and equipment.

Senate Finance and Appropriations

- Provides \$2.3 million in FY 2022 and approximately \$47 million over the biennium for aid to local police departments (“HB 599”).

Jails

House Appropriations

- Increases per diem payments for state-responsible inmates by \$4 (from \$12 to \$16).

Senate Finance and Appropriations

- Increases per diem payments for local-responsible inmates by \$1 (from \$4 to \$5) and for state-responsible inmates by \$2 (from \$12 to \$14 per day).

Economic Development/Workforce

House Appropriations

- Deposits \$180 million in ARPA funds in the Unemployment Insurance Trust Fund in the caboose budget and sets the fund building rate for employers for calendar year 2023 at the rate in effect for calendar year 2024.

Senate Finance and Appropriations

- Deposits \$110 million in ARPA funds in the Unemployment Trust Fund and includes similar language regarding the fund building rate for employers.

Virginia Retirement System

House Appropriations

- Instead of the introduced budget's proposed \$923 million deposit to the Virginia Retirement System in FY 2023, makes a \$500 million deposit in FY 2022.

Senate Finance and Appropriations

- Retains the introduced budget's proposed \$923 million deposit to the Virginia Retirement System and adds \$76 million in FY 2023.

Further analysis will be provided in Capitol Contact later this week once the full versions of the committee proposals are available.

VACo Contact: [VACo Legislative Team](#)

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](#)