

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, March 3, 2022

Update on Property Tax Exemption Legislation

[HB 1168 \(Watts\)](#) would allow a taxpayer who is eligible for the mandatory real property tax exemption for disabled veterans or their surviving spouses or the surviving spouses of servicemembers who are killed in action to claim a refund retroactive to his/her date of eligibility. Under the bill, the window for claiming refunds would extend back to the dates the exemptions were originally implemented (2011 for the disabled veterans' exemption and 2015 for the surviving spouses of servicemembers killed in action). The bill sought to clarify some ambiguity between the statutes implementing the property tax exemptions and a separate, more general statute that provides for a three-year lookback for refunds for local taxes. The Attorney General issued an opinion in 2017 interpreting the exemptions as retroactive.

VACo had expressed concerns about the bill's potential exposure of localities to large, unexpected refund requests. For example, under the bill, someone who was eligible for the disabled veterans' exemption in 2011 but never claimed the exemption could seek a refund many years in the future, and the locality would owe a refund dating back to 2011. To mitigate the unpredictability of the impact on localities, VACo encouraged the placement of some guardrails on the retroactivity of the refund window. The bill was heard by the Senate Finance and Appropriations Committee on March 2; a potential committee substitute that would provide for a three-year lookback period was discussed but never formally adopted, as the patron indicated a preference to carry the bill over to 2023 and develop a consensus, and the Committee opted for this approach.

[HB 957 \(Tran\)](#) allows a locality to classify real property owned by a surviving spouse of a servicemember who died in the line of duty as a separate class of property and to impose real property taxes on this property at a different rate than the rate imposed on other real property (provided that the rate is not zero and does not exceed the rate of tax on other real property). The existing mandatory real property tax exemption does not encompass taxpayers in this situation (it applies when the servicemember was killed in

action as determined by the Department of Defense, but not to situations such as training accidents). The bill has passed the House, was favorably reported by the Senate Finance and Appropriations Committee on March 2, and now heads to the Senate floor. Constitutional amendments that would have mandated such an exemption ([HJ 83 \(Tran\)](#) and [SJ 19 \(Reeves\)](#)) did not move forward this session, as the traditional cycle for Constitutional amendments would provide for consideration of new proposed amendments to begin in 2023.

VACo Contact: [Katie Boyle](#)

School Construction Legislation Roundup

As previously [reported](#), numerous bills have been filed seeking to address the issue of School Construction and Modernization this session. Many of these bills have been defeated, however, several efforts are still ongoing. VACo supports additional state resources and additional funding options for localities for capital and school construction costs, including expanding dedicated local sales and use tax authority first given to select counties by the General Assembly in 2019. What follows is an update on the bills of importance, all of which VACo supports:

[HB 563 \(O'Quinn\)](#) as originally drafted, would establish the School Construction Matching Grant Fund and Program for the purpose of awarding matching grants on a competitive basis to local school boards that demonstrate poor school building conditions, commitment, and need, based on certain enumerated factors, in order for such local school boards to fund the construction of new public school buildings in the local school division. This bill was amended to require the Department of Education in collaboration with the Department of General Services to adopt and maintain a data collection tool to determine the age of school buildings across the Commonwealth and the amount of maintenance reserve funds needed to restore each building. The Construction Fund language was also altered to require unobligated state gaming proceeds be directed to the Construction Fund for the purpose of awarding grants to local school boards for school construction or renovation. On March 2, the Senate Finance and Appropriations Committee conformed the bill to [SB 473 \(McClellan\)](#) and included provisions from [SB 238 \(McPike\)](#). The bill reported by a 14-1 vote.

[SB 238 \(McPike\)](#) would require the Department of Education, 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 was reported unanimously by the House Education Committee 22-0.

[SB 473 \(McClellan\)](#), as originally drafted, would establish the School Construction Fund as a special nonreverting fund in the state treasury for the

purpose of providing grants from the Fund, subject to certain conditions, to school boards that leverage federal, state, and local programs and resources to finance the design and construction of new school buildings and facilities or the modernization and maintenance of existing school buildings and facilities. The bill provides that 3 percent of any fiscal year's budget surplus shall be appropriated to the School Construction Fund and Program. The bill also provides that any remaining revenues not appropriated by the Gaming Proceeds Fund shall be appropriated to the School Construction Fund and Program. On February 23, the House Finance Committee conformed the bill to the version of HB 563 as it passed the House. The Senate subsequently rejected the House amendments, which were then insisted upon by the House.

The actions by the legislature regarding HB 563, SB 238, and SB 473 mean that the issue of School Construction Fund will need to be settled in a conference committee. This matches the different approaches of the House and Senate reflected in their budget proposals, which also will need to be resolved in the budget conference committee. The House proposal Establishes a School Construction Loan Rebate Program with \$291.7 million from the General Fund and \$250 million from the Literary Fund in FY 2023 to award grants to school boards meeting certain criteria to fund construction, expansion, or modernization of public school buildings. Grants provide either 30 percent of principal and interest costs, or interest costs, with grant selection based on demonstrations of poor building conditions, local commitment, and need. ([Item 137 #19h](#)). The Senate proposal retains \$500 million School Construction Grants Program funding included in the introduced bill. Language allows School Construction grant funds to be used for debt service payments on school projects that have been completed Page 3 of 19 or initiated during the last ten years and bars the use of funds for parking lot repair or replacement or for facilities predominantly used for athletics. ([Item 137 #5s](#)).

[SB 471 \(McClellan\)](#), as originally drafted, would make several changes to the Literary Fund recommended by the Department of Education and the Department of Treasury. The original bill was changed by the Senate Finance and Appropriations Committee to conform with Senate budget language to establish a loan closing cost subsidies program to provide up to \$25,000 to a school division that receives a Literary Fund loan, prioritize Literary Fund loan applications on the basis of the local composite index (LCI), increase the maximum loan amount from \$7.5 million to \$25 million, as well as establish loan interest rates that benchmarked to a annual market index, not to exceed 2 percent for localities with the lowest LCI, among other provisions. On February 28, the House Education Committee added a 2023 reenactment clause to the bill and subsequently reported the bill by a vote of 21-1.

Lastly, as previously [reported](#), several bills dealing with school board reversion of unexpended funds were meeting mixed fates in the House and Senate. The remaining surviving bill on this issue [SB 481 \(McClellan\)](#), which was amended to address VACo concerns by encouraging, but not mandating agreements between

local governing bodies and school boards on the use of such funds was also recommended to be laid on the table by the House Education Committee's Early Childhood/Innovation Subcommittee on a vote of 4-3.

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

Bill Expanding Exemption from Minimum Building Code Standards for Agritourism Event Buildings Narrowed to Study

[SB 400 \(Hanger\)](#), as introduced, would initiate a regulatory process to create basic building code standards utilized to host certain events in a farm building or structure. Under current law, these farm buildings or structures used primarily for agricultural operations are exempt from building code. This legislation would also have expanded the building code exemption to buildings, which are solely used to host events.

The amended bill placed reenactment clauses on the language expanding the building code exemption to event spaces (meaning those sections would have to be reenacted next session to become law) and now consists of language that will result in the convening of a technical advisory committee consisting of representatives from the Virginia Association of Counties, the Virginia Farm Bureau Federation, the Virginia Agribusiness Council, the Virginia Wineries Association, a craft beverage manufacturer, the Virginia Fire Prevention Association, the Virginia Fire Services Board, and the Virginia Building and Code Officials Association.

VACo supports this amendment and will report on the work of the advisory committee once it begins meeting.

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

School Resource Officer Bill Resurrected with New Language

Legislation that would have required each local school board to employ at least one school resource officer or one school security officer at each public elementary and secondary school was brought back from the jaws of defeat by the Senate Education and Health Committee with new language. As previously [reported](#), [HB 873 \(Greenhalgh\)](#) would have imposed significant negative fiscal impacts to local governments via an unfunded mandate. As such, the Senate Education and Health Committee's Public Education Subcommittee

recommended laying the bill on the table following testimony from VACo and other K-12 associations.

However, on March 3, the full Senate Education and Health Committee entertained a substitute to this bill that contains language significantly different from the original version. The latest [version](#) of the bill would require any local school division threat assessment team to include a school resource officer if there is a school within the division in which a school resource officer is employed. Furthermore, it would require the chief law-enforcement officer for any school division in which a school does not employ a school resource officer to designate a law-enforcement officer to complete in-person or online a school safety training for public school personnel conducted by the Virginia Center for School and Campus Safety.

These changes remove the primary fiscal impact concerns voiced by VACo. The full committee reported and referred the bill to the Senate Finance and Appropriations Committee by a vote of 11-4.

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

Helpful Public Notice Bills Moving Along Smoothly

[HB 167 \(Ransone\)](#) **Publication of notice by localities.** This bill passed the House and Senate and 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.

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

Public Notice Provision Study

[HB 1131 \(Williams\)](#) / [SB 417 \(Stanley\)](#) **Virginia Code Commission; work group to review public notices required to be published by localities.** VACo supports these bills that direct 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. Both bills are proceeding through the chambers smoothly.

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

Finance Roundup

In addition to several bills considered by the General Assembly dealing with local taxes on which VACo has reported in detail, a number of other finance-related bills have been considered. Below is an update on the status of these bills.

[HB 148 \(Runion\)/SB 684 \(Mason\)](#) allow a political subdivision responsible for administering water, wastewater, stormwater, or solid waste management facilities or system to certify pollution control equipment and facilities being used for the operation of water, wastewater, stormwater, or solid waste management facilities or systems to the Department of Taxation so that the property may qualify for a sales tax exemption. Currently, this certification must be obtained from the State Water Control Board or the Virginia Department of Health for water projects, or from the State Water Control Board for waste disposal facilities. These bills, which VACo supported, streamline this process in order to expedite projects. HB 148 has been approved by the Governor and SB 684 is headed to the Governor's desk.

[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 has passed the House and is headed to the Senate floor.

[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.

[HB 226 \(Coyner\)](#) makes technical and clarifying changes to the procedure for appeals of local tax assessments to the circuit court.

[HB 267 \(McNamara\)](#)/[SB 12 \(Suetterlein\)](#) allow localities to provide by ordinance for returning surplus personal property tax revenues to taxpayers in any year in which the locality reports a surplus. Current law allows for such authority for real property tax revenues. HB 267 is on the Senate floor and SB 12 has passed both chambers.

[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. This bill has passed both chambers.

[HB 791 \(McNamara\)](#)/[SB 513 \(McPike\)](#) provide that if data center fixtures are taxed as real property, they must be assessed using the cost approach, defined in the bill as “assessing value by determining the cost to construct a reproduction or suitable replacement of fixtures and deducting physical, functional, and economic depreciation sustained by such fixtures.” These bills have passed both chambers.

[HB 911 \(Orrock\)](#) enables the governing body of any county, city, or town to provide a credit against taxes and fees imposed by the locality to an individual who provides approved volunteer services in the locality. Approved volunteer services are defined to include volunteer firefighting and fire prevention services, emergency medical and ambulance services, auxiliary police services, and emergency rescue services that operate exclusively for the benefit of the general public on behalf of nonprofit organizations, or other locally approved services. Credits would not be allowed to be applied to real property taxes, service charges imposed in lieu of real property taxes, or personal property taxes. This bill has passed both chambers.

[HB 951 \(Hodges\)](#)/[SB 77 \(Norment\)](#) allow a county to conduct a general reassessment of real estate every three years if determined by majority vote of the board of supervisors. Both bills have passed both chambers.

[HB 996 \(Webert\)](#) allows the owner of a majority interest in a parcel of real estate that is eligible for land use assessment to file an application for land assessment for the property on behalf of himself or herself and the other owners of the property. Under current law, an owner representing a majority interest could apply upon submitting an affidavit that the other owners are minors or cannot be located. This bill has passed the House and is headed to the Senate floor.

[HB 1084 \(Leftwich\)](#)/[SB 385 \(McDougle\)](#) bar a locality from imposing BPOL taxes on a director of a bank or trust company that is subject to the bank franchise tax. HB 1084 has passed the House and is headed to the Senate floor; SB 385 has passed both chambers.

[HB 1239 \(Scott, P.\)](#) and [SB 771 \(Stuart\)](#) are similar bills that seek to allow local governing bodies some flexibility in the tax rates that may be imposed on cars and similar passenger vehicles. HB 1239 would create a new class of tangible personal property for rate purposes, which would include most automobiles, passenger trucks, motor vehicles with specially-designed equipment for use by individuals with disabilities, motorcycles, mopeds, all-terrain vehicles, and off-road motorcycles, campers, and other recreational vehicles. Localities would have the authority to impose a tax rate on this new class of property at a different rate than other personal property. This bill has an emergency clause. SB 771 is similar but does not include an emergency clause and contains a sunset clause making the bill's provisions applicable for tax years beginning January 1, 2022, and before January 1, 2024. These bills are expected to be placed in conference to resolve the differences in their language.

[SB 648 \(McPike\)](#) allows localities to accept affidavits or other documentation from applicants for local tax exemption or deferral programs for residents 65 years of age or older or residents with disabilities on a rolling basis. Current law provides for these application materials to be filed after January 1 of each year but before April 1, or by a later date as provided by ordinance.

VACo Contact: [Katie Boyle](#)

FOIA Bills Moving Forward

[HB 307 \(Freitas\)](#) **Virginia Freedom of Information Act; estimated charges for records.** 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, prior to conducting a search for records, to notify the requester in writing of the public body's right to make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for requested records and inquire of the requester whether he would like to request a cost estimate in advance of the supplying of the requested records. A senate amendment does not allow charges for scholastic records or property records requested by the owner of the property that is the subject of such records.

[HB 150 \(March\)](#) **Virginia Freedom of Information Act; local public bodies to post meeting minutes on its website.** This bill has passed both chambers and requires localities to post their minutes on their website if they have a website within seven working days of finance approval of the minutes. If there is no website, copies must be available at a prominent location as stated in the bill.

[HB 444 \(Bennett-Parker\)](#) **FOIA; meetings conducted by electronic communication means; situations other than declared states of**

emergency. This helpful bill sets out the parameters for public bodies to hold electronic meetings outside of the state of emergency when following the rules as set out in the bill. VACo, VML, the Virginia Press Association and the Coalition for Open Government worked with the patron and supported this consensus bill. HB 444 amends 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. The bill also allows public bodies to conduct all-virtual public meetings where all of the members who participate do so remotely and that the public may access through electronic communications means where a public body has passed a policy allowing such meetings and also provides that only 2 meetings or 25% of meetings annually (whichever is greater) may be virtual. [Please contact your Senators](#) to support this bill as it heads to the Senate floor.

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](#)