

# Capitol Contact

## Virginia General Assembly

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## Governor Announces Amendments and Vetoes



On April 11, Governor Youngkin released his remaining amendments to legislation passed by the 2022 General Assembly, as well as his vetoes of 25 bills (the Governor had previously announced one veto). The Governor made amendments to 114 bills (the legislature previously accepted the Governor's amendments to two other bills prior to the conclusion of the session). The General Assembly will return to consider the Governor's amendments and vetoes on April 27.

Several bills with amendments by the Governor are of interest to local governments. Following is an overview of these bills:

[HB 142 \(McQuinn\)](#) and [SB 342 \(Barker\)](#) change from a maximum of 25 percent to a minimum of 25 percent the percentage of Transit Ridership Incentive Program (TRIP) funds required to be used to support the establishment of programs to reduce the impact of fares on low-income individuals. HB 142 requires at least 25 percent of the TRIP funds be used to support regional transit initiatives, among other provisions. SB 342 provides that funds awarded for reduced-fare or zero-fare transit projects shall not be included in the requirement that funds be awarded in accordance with a statewide equitable ratio. The Governor's amendment adds a sunset date of July 1, 2024, to the requirement that a minimum of 25 percent of TRIP funds be used to support the establishment of programs to reduce the impact of fares on low-income individuals, at which point it will revert to a maximum of 25 percent.

[HB 277 \(Coyner\)/SB 622\(Favola\)](#), as passed by the General Assembly, require recovery residences to disclose to prospective residents their credentialing entities and provide that regulations promulgated by the State Board of Behavioral Health and Developmental Services must require recovery residences to comply with any minimum square footage requirements related to beds and sleeping rooms established by their credentialing entities, which must be no less than the square footage requirements set forth in the Uniform Statewide Building Code. The Governor's amendments clarify that the greater of the two minimum square footage requirements would apply.

[HB 307 \(Freitas\)](#) provides that a public body subject to the Virginia Freedom of Information Act shall make all reasonable efforts to supply records requested by a citizen at the lowest possible cost. The bill also requires a public body, 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. The Governor's recommended amendment adds language that exempts scholastic records requested by a parent, guardian or student who is the subject of the records (over the age of 18) from charge for accessing, duplicating, supplying, or searching for records. This amendment also deletes language which exempts from charge property records requested by the owner of the property that is the subject of such records.

[HB 384 \(Davis\)](#) protects state and local government employees of the Commonwealth, as defined in the bill, from being penalized by their employer for expressing their opinion regarding a current or proposed regulation, rule, policy, position, or other action or purpose of a unit of state or local government at a hearing of a public body during the time designated for public comment when such employees are speaking on their own behalf as members of the public. The Governor's recommended amendment removes the language that allows state employees to speak at public comment period at state government meetings, but adds that state employees can speak at a local public body or school board hearing during the public comment period. In the local employee

section of the bill, the Governor’s amendments set out that local employees may speak at a local public body or school board hearing during public comment.

[HB 585 \(VanValkenburg\)](#) requires, except for those middle and high school students with significant cognitive disabilities who participate in an alternate assessment, each student in middle and high school to take only those end-of-course Standards of Learning assessments necessary to meet federal accountability requirements and Virginia high school graduation requirements, among other provisions. The Governor’s amendment proposes substitute language that requires the Secretary of Education and Superintendent of Public instruction to convene a workgroup of appropriate stakeholders to revise the Virginia Standards of Learning (SOL) summative assessments of proficiency. The workgroup shall make a report to relevant General Assembly Committees by November 1, 2023. VACo supports changes to educational programs and standards that rely less on standardized testing and more on critical thinking skills such as performance-based assessments. VACo opposes efforts to impose additional standardized testing burdens on students and school staff.

[HB 873 \(Greenhalgh\)](#) requires, in the case of any public elementary or secondary school in which a school resource officer (SRO) is employed, the threat assessment team for such school to include at least one such SRO. The bill also requires the chief local law-enforcement officer for any local school division in which a public elementary or secondary school does not employ a SRO to designate a law-enforcement officer to receive, either in-person or online, the school safety training for public school personnel conducted by the Virginia Center for School and Campus Safety in accordance with relevant law and requires such officer to serve as the law-enforcement liaison for the school administrator in such a school who has also received such training as prescribed by relevant law.

The Governor’s recommended amendment specifies that a law-enforcement liaison on a threat assessment team for a school without an SRO serve “in each public elementary or secondary school that does not employ a [SRO].” VACo has received information that the intent of this language is to merely clarify that a law enforcement liaison should be serving on the threat assessment team for a school in which an SRO is not employed. However, VACo views this language as ambiguous. If the language were to be interpreted to require local law enforcement agencies to station law enforcement officers *physically* inside of school buildings that currently do not have SROs, as was the case with the original version of this bill, the estimated local fiscal [impact](#) could be as high as \$19 million and would constitute a significant unfunded local mandate. VACo is seeking guidance as to the potential impact of the amendment.

[HB 879 \(Rasoul\)](#) requires the nine-member Virginia Board of Education (VBOE), 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. As local governments fund K-12 education in excess of \$4 billion beyond their local required effort, VACo supported this bill, as it gave local governments a seat at the table of a key policy making body. The

Governor's amendment proposes substitute language that only requires the Governor to *consider* appointing one member with the above-mentioned experiences and expertise.

As passed by the General Assembly, [HB 911 \(Orrock\)](#) would allow local governing bodies to provide a credit against taxes and fees imposed by the locality to any 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, which include volunteer services performed on behalf of a nonprofit organization or the locality, and which would be further defined by the locality by ordinance. 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. The Governor's amendments remove the provisions allowing the locality to grant credits for individuals providing locally approved services and slightly modify the definition of "approved volunteer services" such that the services could be provided on behalf of the locality (in addition to operating on behalf of nonprofit organizations).

[HB 987 \(Tran\)](#) requires program information regarding Medicaid be made available in a manner that is accessible to individuals with limited English proficiency and individuals with disabilities, when doing so is a reasonable step to providing meaningful access to health care coverage. The bill requires websites maintained by the Department of Medical Assistance Services and state agencies that provide program information to include information regarding how individuals may receive language access services and auxiliary aids services. The Governor's amendments expand this requirement to include local government or state agency contractor websites that provide program information.

As passed, [SB 192 \(Mason\)](#) expands the number of individuals who may be appointed as a local health director to include an individual with a master's or doctoral degree in public health and three years of public health experience, or an individual who is otherwise qualified as determined by the Commissioner of Health. Currently, a local health director must be a licensed physician. The Governor's amendment removes the language regarding public health credentials and experience, so that a local health director could be either a licensed physician or otherwise qualified as determined by the Commissioner.

[SB 281 \(Ebbin\)](#) exempts a manufacturer, factory branch, distributor, distributor branch, or factory or distributor engaged in the manufacture or distribution of transit buses from the requirements of obtaining a license from the Department of Motor Vehicles to engage in business, among other provisions. VACo supported this bill, which clarifies existing code to continue to allow Virginia to participate in the Federal Transit Agency's (FTA) bus procurement program. The Governor's recommended amendment specifies that the legislation applies to "transit buses."

[SB 591 \(Hanger\)](#) is intended to bar sales of certain synthetic cannabis products by modifying the definition of "marijuana" to include any substance exceeding certain

concentrations or per-serving or per-package amounts of tetrahydrocannabinol (THC). The bill also targets products that appear to be marketed to children by directing the Virginia Cannabis Control Authority to promulgate regulations that would prohibit the production and sale of retail marijuana and retail marijuana products that depict or are in the shape of a human, animal, vehicle, or fruit. The Governor's proposed substitute includes these proposed regulatory prohibitions on products in human, animal, vehicle, or fruit shapes, and bars sales of any product containing THC to persons younger than 21, effective October 1. The amendments also bar sales of products with THC concentrations greater than 0.3 percent or products containing synthetic delta-8 THC, also effective October 1. The Governor's proposal also establishes new penalties for possession of marijuana. Currently, possession of not more than one ounce is legal, and possession of amounts in excess of one ounce triggers a civil penalty of \$25; possession of more than one pound is a felony. The Governor's substitute would make possession of more than two ounces but not more than six ounces a Class 2 misdemeanor, and possession of more than six ounces but not more than one pound a Class 1 misdemeanor.

[SB 666 \(Petersen\)](#) redefines "lost profits" for the purposes of determining just compensation in eminent domain cases. The Governor's recommended amendment adds some helpful language regarding claims where the impact to a property is for less than 7 days. The Governor also proposes to add an enactment clause providing that the bill does not apply to certain condemnation proceedings filed prior to July 1, 2022.

[SB 694 \(Obenshain\)](#) makes a series of changes to statutes governing the condemnation process. The Governor proposes to add an enactment clause stipulating that the bill does not apply to certain condemnation proceedings filed prior to July 1, 2022.

Following is an overview of Governor's vetoes of interest to local governments:

[HB 802 \(Price\)](#) would allow a locality, under certain circumstances, to bring an action to enforce a landlord's duty to maintain a rental dwelling unit in a fit and habitable condition. The Governor's veto message indicates that, in the Governor's view, the bill duplicates localities' powers under the Uniform Statewide Building Code.

[SB 250 \(Surovell\)](#) would increase the annual fees for nonhazardous solid waste management facilities and index the fees annually based on the change in the Consumer Price Index. The Governor's veto message indicates that the Governor views the proposed increases as too large, particularly given high levels of inflation in recent months.

[SB 706 \(Marsden\)](#) would prohibit operators of heavy trucks, as defined in the bill, from using cruise control or compression release engine brakes when driving in active snow, sleet, or freezing rain. The Governor's veto explanation states that these measures would not prevent a traffic incident such as that happened on January 3-4, 2022, on the I-95 corridor from occurring, which is the claimed intent of the bill and that these provisions would impose burdens on the trucking industry.

[SB 722 \(Marsden\)](#) would authorize localities in Planning District 8 to prohibit parking a motor vehicle with its wheels fully on the curb or with its wheels straddling the curb, and provides that any motor vehicle parked on a curb is subject to a fine and may be removed by or under the direction of a law-enforcement officer or parking enforcement officer. The Governor's veto explanation cites a lack of clarity as to the effectiveness of this measure in combatting this practice as well as the steepness of the penalty for infractions.

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