

Capitol Contact

Virginia General Assembly

Virginia Association of Counties • 1207 E. Main Street, Suite 300 • Richmond, VA 23219
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Thursday, January 26, 2023

Call Now to Support Funding for School Construction

Bills to be Heard Tomorrow – Call House Finance Subcommittee Members to Support

[HB 2316 \(Bourne\)](#) would permit any county or city to impose an additional local sales and use tax of up to 1 percent, if initiated by a resolution of the local governing body and approved by voters at a local referendum. The revenues of such a local tax would be used solely for capital projects for the construction or renovation of schools. Any tax imposed shall expire when the costs for capital projects are to be repaid and shall not be more than 20 years after the date of the resolution passed. Currently, this authority is limited to the qualifying localities of Charlotte, Gloucester, Halifax, Henry, Mecklenburg, Northampton, Patrick, and Pittsylvania Counties and the City of Danville. Eight of these localities have held and passed voter referendums. [HB 1605 \(Edmunds\)](#) would expand this authority to Prince Edward County and is also supported by VACo.

These bills allow Counties to exercise a local voter approved option to meet their community needs. They are NOT an automatic tax increase.

ACTION REQUIRED – Call your delegates who serve on the [House Finance Subcommittee #3](#) now to encourage their support of HB 2316 and HB 1605. To testify remotely or provide written comments – [use this direct link to the subcommittee](#). Please let VACo know how your legislators respond to your request.

These bills will be heard tomorrow (Friday) at 7:30 a.m. in the [House Finance Committee's Subcommittee #3](#). Please contact members **TODAY** to urge them to support HB 2316 and HB 1605.

KEY POINTS

- Funding for school construction and renovation is one of the biggest concerns and responsibilities of local governments in the Commonwealth and has been almost solely a local responsibility for decades. The condition of the facilities in which children are educated has a direct impact on their ability to learn.
- Many localities face significant challenges in raising sufficient funds to undertake these projects. These challenges include over-reliance on real property taxes to generate revenue, which can have vastly different yields depending on the locality and disproportionately burden a subset of taxpayers within a jurisdiction. This raises concerns over equity and diversity of revenues.
- According to the [Commission on School Construction and Modernization](#), more than half of K-12 school buildings in Virginia are older than 50 years. The amount of funding needed to replace these buildings is estimated to cost \$24.8 billion.
- This legislation is a unanimous recommendation by the Commission on School Construction and Modernization.
- VACo supports the \$1.25 billion in funding made by the General Assembly to address school construction needs last year, however, the greater need persists and will only be solved by a combination of state and local funds.
- These bills are **NOT** a tax increase. They would create a local option and another tool in the toolbox of local government, which would only be enacted by local referendum.
- Legislators should trust their local governments and their mutual constituents to make their own decisions regarding their finances and the health, education, and welfare of their children and their schools.

KEY CONTACTS

[House Finance Committee's Subcommittee #3: Byron \(Chair\), Orrock, Freitas, Robinson, Runion, Murphy, Scott, D.L., Convirs-Fowler](#)

VACo Contact: [Jeremy R. Bennett](#) (804.343.2510)

Update on Finance Legislation, including Grocery Tax Bills

Grocery tax bills defeated in the Senate, advance in the House: On January 18, the Senate Finance and Appropriations Committee considered [SB 850 \(Suetterlein\)](#), which would have eliminated the local option sales and use tax on food for human consumption and essential personal hygiene products and replaced the lost revenue via a supplemental school payment that would be distributed from remaining state sales tax revenues. The Committee voted to pass the bill by indefinitely by a vote of 12-4. The Committee took similar action on [SB 1008 \(DeSteph\)](#), which would have authorized cities and counties to exempt food for human consumption and essential personal hygiene products from the local option sales tax. In the House, [HB 1484 \(McNamara\)](#), the companion bill to SB 850, has been reported from the House Finance Committee and referred to the House Appropriations Committee. Although VACo appreciates the patrons' intention to replace lost revenue to localities, **VACo is opposed** to revisiting the compromise that was negotiated in 2022 and took effect January 1. Eliminating this local revenue source would leave localities reliant on the state to backfill these funds.

Personal property valuation legislation to be referred to study: [HB 1402 \(March\)](#), which would have required tangible personal property that is employed in a trade or business, and machinery and tools, to be valued according to the federal Modified Accelerated Cost Recovery System (MACRS), was heard in a subcommittee of House Finance on Monday evening and recommended to be tabled and referred for study. MACRS is a method of recovering the costs of business or income-producing property through deductions for depreciation on federal income taxes. Under MACRS, once property is fully depreciated, it is considered to have no value. Current assessment practices recognize that older property retains residual fair market value. **VACo opposed the legislation** due to concerns about its significant revenue impact to local governments, as well as the administrative complexity of the MACRS system.

One BPOL bill tabled; one still under consideration: [HB 1920 \(Hope\)](#) would exempt certain blogs and online news websites from BPOL. VACo addressed the bill in subcommittee and encouraged members to refer the legislation to study so that its impact on localities could be fully considered. The bill was tabled by House Finance Committee's Subcommittee #2. [HB 2200 \(Robinson\)](#) would provide a deduction from BPOL for anti-cancer drugs purchased by a medical practice and administered within a physician-patient relationship to patients. The exemption applies to drugs that are administered to a patient whose costs for treatment are paid for by Medicare, Medicaid, or TRICARE. VACo has been in contact with proponents of the bill to discuss alternative approaches, such as the existing regulatory authority for localities to establish subclassifications of businesses within the statutory categories and impose lower rates on, or provide exemptions for, these subclassifications, but is opposed to a mandatory carveout.

Legislation regarding penalties on unpaid business taxes amended: [HB 1685 \(Greenhalgh\)](#), as introduced, would have capped the maximum penalties that could be assessed on certain unpaid business taxes, in addition to requiring certain notice to the taxpayer. After discussions with VACo and the Commissioners of the Revenue Association and the Treasurers' Association, the patron removed provisions dealing with penalties, instead focusing the legislation on required notices to the taxpayer. VACo appreciates Delegate Greenhalgh's willingness to address VACo's concerns.

Bill placing limitations on local ability to adopt real estate tax rate considered: [HB 1749 \(Walker\)](#) would limit local ability to raise revenues by imposing a new process for adoption of the real estate tax rate in situations in which real property assessments are increasing. Under current law, when any annual assessment, biennial assessment, or general reassessment of real property by a county, city, or town would result in an increase of one percent or more in the total real property tax levied, the locality has two options: reduce the tax rate for the forthcoming tax year so as to produce no more than 101 percent of the previous year's real property tax levies, or, if deemed necessary by the governing body, a rate that produces more than 101 percent of the previous year's levies may be imposed after conducting a public hearing on the issue. Statutory provisions govern the timing and manner of public notice of the hearing, as well as stipulating the contents of the notice.

Under the bill, if the proposed increase to the tax rate (above the lowered rate that would otherwise be required) is less than three percent, the increase could be approved by a majority vote of the governing body after a public hearing, which could not be held on the same day as the annual budget hearing. A proposed increase of more than three but less than five percent could be approved after public hearing, but would require a supermajority vote of two-thirds of the governing body. An increase to the rate of levy of 5 percent or greater would require a referendum. The bill was heard in a subcommittee of House Finance on Tuesday evening. After significant discussion, the bill was retained with the subcommittee; the legislation is likely to be reconsidered at a future meeting.

Legislation dealing with refunds for real property tax exemptions advances: [HB 1470 \(Watts\)](#) and [HB 2361 \(Wiley\)](#) provide that taxpayers who are eligible for the real property tax exemptions for disabled veterans and their surviving spouses and for the surviving spouses of servicemembers killed in action are entitled to refunds of taxes paid retroactive to their date of eligibility, potentially extending back to the date the exemptions were first enacted (2011 for the disabled veterans and surviving spouse exemption and 2015 for the exemption for surviving spouses of servicemembers killed in action). Refunds for most local taxes extend back to the current and three prior years, and the bills seek to clarify some ambiguity between the statutes enacting the property tax exemptions and the general statute governing tax refunds. VACo has been working with the patrons and seeking to establish a reasonable lookback period that does not expose localities to potentially large, unanticipated refunds while also affording taxpayers a fair

opportunity to apply for exemptions. HB 1470 was heard in subcommittee on Friday, January 20, and reported from the full committee on Wednesday, January 25.

Other finance bills of interest

[HB 1486 \(Webert\)](#) expands the list of certain farm machinery and farm implements that a locality may exempt from personal property taxes to include motor vehicles used primarily for agricultural purposes, privately owned trailers primarily used by farmers in their farming operations, and season-extending vegetable hoop houses used for in-field production of produce. An enactment clause stipulates that a locality that exempts motor vehicles or privately owned trailers may not collect any unpaid tangible personal property taxes, including interest or penalties, that are owed to the locality as of July 1, 2023. This bill has been reported from House Finance.

[HB 1942 \(Durant\)](#) adds to the required components of the notice of changes in assessments that is mandated to be provided to property owners. Under the bill as amended in House Finance, in any locality that conducts an annual or biennial reassessment of real estate or in which reassessment of real estate is conducted primarily by employees of the county, city, or town under direction of the commissioner of the revenue, the notice would have to include the effective tax rate increase if the proposed rate exceeds the lowered tax rate (the tax rate which would levy the same amount of real estate tax as the previous year). This information is already required to be included in the notice advertising the public hearing that is required if a locality is not proposing to reduce the tax rate to generate no more than 101 percent of the previous year's real property tax levies. This bill has been reported from House Finance.

[HB 2110 \(Bourne\)](#) extends the maximum duration of an installment agreement for the payment of delinquent real estate taxes from 60 to 72 months. This bill has been reported from House Finance.

VACo Contact: [Katie Boyle](#)

Education Savings Account Bills and Charter School Amendment Fail to Graduate

As in past sessions, several bills seeking to divert public funds towards private education savings accounts have been introduced and heard at the General Assembly. Additionally, a constitutional amendment to usurp local control over the charter school approval process was also introduced. A brief overview of such legislation is listed below.

Currently, there are several variations of the Savings Account proposal, also known as the “Virginia Education Success Account Program:” [HB 1508 \(Davis\)](#), [HB 1396 \(March\)](#), [HB 1371 \(P. Scott\)](#), [SB 823 \(Chase\)](#), [SB 1290 \(DeSteph\)](#), and [SB 1191 \(Reeves\)](#).

These pieces of legislation each establish the Education Savings Account Program, which allows the parent of an individual, who is a resident of Virginia and is eligible to be enrolled in public school, to apply for an account. This account deposits state and local funds from the Department of Education for parents to use to educate children in places other than full-time public schools. Each of these bills has a range of differences such as the definition of a “qualified student,” whether eligible students should be counted in the average daily membership calculations, and if saving accounts can be used for homeschooling, etc. Although different, at the core, each bill diverts funds from local school divisions to give to parents to use at nonpublic education establishments.

According to the Virginia Board of Education, when adjusted for inflation, state direct aid for public schools has fallen by 3.4% since 2009. Local governments have taken on this share of the funding burden, investing more than \$4.2 billion beyond what they are required to do so to support K-12 education, yet many localities struggle to raise sufficient revenue to meet the growing needs of students and communities. Until the state restores its share of funding and meets the needs of local school divisions across the Commonwealth, any conversation on diversion of funds is premature.

On January 19, SB 823 (Chase), SB 1290 (DeSteph), and SB 1191 (Reeves) were all heard in the Senate Education and Health Committee’s Public Education Subcommittee. VACo testified in opposition to these bills, which were not recommended by the subcommittee. The bills were subsequently passed by indefinitely by the full committee on January 26 by a vote of 9-6.

In the House, HB 1508 was narrowly reported and referred to House Appropriations by the House Education Committee on a vote of 11-10 on January 25. VACo had previously testified against the bill in subcommittee. On the same day in the House Education Committee’s Early Childhood/Innovation Subcommittee, HB 1371 was taken by for the day while HB 1396 was recommended to be passed by indefinitely on unanimous vote of 8-0. **VACo testified in opposition to the bills.** It is likely that the remaining House bills will meet a fate like their Senate companions.

Additionally, [SJ 254 \(Obenshain\)](#) would amend the Constitution of Virginia to grant to the Board of Education the authority, subject to criteria and conditions as the General Assembly may prescribe, to establish charter schools within the school divisions of the Commonwealth. Currently, this [authority](#) rests solely at the local level, which VACo supports.

On January 24, **VACo spoke in opposition to the measure**, which failed to be recommended for reporting from the Senate Privileges and Elections Committee's Subcommittee #1.

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

Expanded Authority for School Zone Crossing Areas Passes House of Delegates

[HB 2104 \(Bourne\)](#), as introduced, would allow the local governing body of any county, city, or town to place a “school crossing” sign at any location within the locality. The legislation would expand this authority to all localities in the Commonwealth as currently only localities that maintain its own system of secondary roads can exercise this authority. The original language also allowed localities within Planning District 8 to be able to reduce the speed limit in school crossing zones without an engineering and traffic study. While the language that included the speed reduction was removed, **VACo spoke in support of the substitute bill**, which was reported by a 7-1 vote by the House Transportation Committee's Transportation Infrastructure and Funding Subcommittee.

VACo believes that although the language allowing Planning District 8 localities to reduce speed limits in school crossing zones was removed, the substitute bill still expands the ability of localities to keep the citizens closest to them safe. VACo believes this is another tool in the toolbox for Boards of Supervisors to respond to local concerns and do what is best for each unique locality. VACo wants to thank Delegate Bourne for introducing and advocating for this legislation. VACo will provide further updates as this bill moves through the Senate of Virginia.

The substitute legislation moved to the House Transportation Committee and reported out of committee and on to the House floor by a vote of 19-1. On January 25, the House of Delegates voted to approve the measure by a 99-1 vote. HB 2104 will begin hearings in the Senate next month.

VACo Contact: [James Hutzler](#)

VACo Supports Bills to Streamline Permitting of Broadband Infrastructure at Railroad Crossings

[SB 1029 \(Stanley\)](#) and [HB 1752 \(Head\)](#) seek to standardize the process by which railroads permit the crossing of lines for the deployment of broadband infrastructure to expand access to the internet. Currently, delays in reviews can stretch months at a time and require review fees more than \$20,000 per crossing.

This is of particular concern to counties that must meet construction deadlines to avoid forfeiting Virginia Telecommunication Initiative (VATI) grant awards.

SB 1029 and HB 1752 do the following to address these costly delays:

- Sets a 30-day timeline to review a railroad crossing notice
- Standardizes crossing fees
- Gives the SCC authority to adjudicate when parties disagree

VACo supports these commonsense measures to ensure that broadband can be deployed in a timely and cost-effective manner. SB 1029 passed in committee and is now on the Senate floor for consideration. HB 1752 is scheduled to be heard in [House Commerce and Energy Committee's Subcommittee #3](#) today.

VACo Contacts: [Jeremy R. Bennett](#) and [Joe Lerch, AICP](#)

Local Authority for Speed Limit Reduction Dies Again

This year, [and in years past](#), a bill was introduced that gave the authority to localities to lower speed limits on roads in the state highway system located in a residential or business district to lower than 25 mph but not lower than 15 mph. [HB 1939 \(Plum\)](#) would have achieved a long sought-after transportation safety policy goal of localities across the Commonwealth as this would enable localities to better respond to concerns regarding transportation safety.

HB 1939 was heard before the House Transportation Committee's Transportation Infrastructure and Funding Subcommittee on January 24, **and VACo staff was there to speak in support of the measure.** Unfortunately, the Subcommittee recommended laying the bill on the table by a vote of 5-3. VACo wants to thank Delegate Plum for carrying this bill and bringing attention to the concerns of local governments and their ability to respond to constituent concerns regarding transportation safety.

VACo Contact: [James Hutzler](#)

Committee Disposes Bill Imposing Costs to Landfills

[HB 1370 \(Ware\)](#), as introduced, would not allow the siting of a new landfill in the Commonwealth within one mile of a private well. VACo opposed the initial legislation and during the bills hearing of the House Agriculture, Chesapeake and

Natural Resources Committee, amendments were offered and adopted. The amendments removed the “one mile” provision but added that all future landfills require the addition of a second liner. While VACo appreciates the changes made, **VACo spoke in opposition** because of the potential fiscal impact this may have on localities across the state. VACo believes that the inclusion of a double liner might not be appropriate in all circumstances and should rely on scientific and geological analysis of the possibly sited landfill and not refer to a one size fits all solution.

VACo appreciates the communication Delegate Ware and his staff have had with us on this issue. The bill was laid on the table by a vote of 14-8 in the full committee.

VACo Contact: [James Hutzler](#)

Legislation and budget proposals seek to address state hospital capacity and temporary detention process

State hospital capacity continues to be a topic of concern at the General Assembly. Several bills address aspects of the temporary detention process in an effort to relieve pressures on state hospitals and law enforcement agencies. The Governor’s budget proposes several investments that are intended to address state hospital capacity, as well as enhancements to the state crisis system, and General Assembly members have proposed additional funding as well.

[HB 1792 \(Ransone\)](#) and [SB 1302 \(Deeds\)](#) would modify the current statute dealing with physicians’ ability to seek an order from a court or a magistrate authorizing temporary detention of an individual for testing, observation, or treatment when that person is incapable of making or communicating an informed decision regarding treatment due to a medical or physical condition and the medical standard of care calls for observation, testing, or treatment in order to prevent harm to the person. Under the legislation, in a situation where the mental or physical condition appears to be the result of intoxication, a physician could seek an order from the magistrate or the court for temporary detention of the individual.

[HB 1976 \(Bell\)](#) and [SB 1299 \(Deeds\)](#) would allow the director of a facility where an individual is awaiting transportation to a facility of temporary detention to release the individual prior to a commitment hearing if an evaluation conducted by the psychiatrist or clinical psychologist treating the person determines that the person would no longer meet commitment criteria. Under current law, this authority may be exercised by the director of a facility where an individual is detained. The fiscal impact statement accompanying the legislation indicates that the bill may reduce the number of individuals admitted to state hospitals if individuals are determined

to no longer meet criteria for detention while they are awaiting transportation to the hospital.

[SB 872 \(Newman\)](#) seeks to expand use of alternative transportation for individuals subject to emergency custody or temporary detention orders by requiring the magistrate to authorize alternative transportation under certain circumstances. Language added to the legislation in subcommittee would authorize an employee or contractor of an alternative transportation provider under contract with the Department of Behavioral Health and Developmental Services who has completed certain training to use restraints if necessary to ensure the safety of the person being transported and less restrictive techniques have been determined to be ineffective.

[SB 1512 \(Mason\)](#) would allow a “certified evaluator” to conduct a temporary detention order evaluation in lieu of the employee or designee of the local community services board if the person subject to the temporary detention order evaluation is located in a hospital in Planning District 21 with a psychiatric emergency department. The bill stipulates certain educational and training requirements for the certified evaluators. The bill expires July 1, 2025.

As reported in VACo’s analysis of the Governor’s budget, the introduced budget proposes several investments in the state hospital system and crisis services in order to address capacity concerns within state hospitals, including:

- \$58.3 million GF in FY 2024 to expand and modernize the comprehensive crisis services system, including investment in additional crisis receiving centers and crisis stabilization units and expansion of existing sites.
- \$20 million GF in FY 2024 for comprehensive psychiatric emergency programs or similar models of psychiatric care in emergency departments.
- \$20 million GF in FY 2024 for the one-time costs of establishing additional mobile crisis services in underserved areas.
- \$4 million (and \$110,000 for administrative costs) for a pilot program to assist sheriffs’ offices and regional jails with the costs of maintaining custody and transportation of individuals in their custody who are subject to an ECO or TDO. This funding will allow for up to 71 deputy sheriff positions to be allocated, with the balance of funds to be allocated to reimburse offices on an hourly basis. Positions and funding would be allocated by the Compensation Board based on workload. Language provides that these funds are to supplement and not supplant existing local spending on these services.
- Consolidation of funding for alternative transportation and funding for alternative custody for individuals subject to a temporary detention order, as well as an additional \$1 million GF in FY 2024 for DBHDS to contract with local law enforcement agencies who have agreed to use off-duty officers to provide transportation services or to assume custody of an individual under a temporary detention order who is awaiting admission to a state facility.
- \$8 million GF in FY 2024 for supervised residential care, with priority to be given to projects for individuals on the Extraordinary Barriers List (who are clinically ready for discharge, but remain in the hospital for more than 30 days after that determination).

- \$1.5 million set aside from the existing appropriation of \$7.5 million GF in FY 2024 to DBHDS to pursue alternative inpatient options to state hospitals or to increase capacity in the community for patients on the Extraordinary Barriers List to support the discharge of private hospital patients at risk of transfer to state hospitals.
- Expansion of eligibility for the existing funding for pilot programs to serve individuals with dementia who might otherwise be admitted to state facilities to allow all older persons (defined in a cited statute as persons aged 60 and older) to qualify.

In addition, several budget amendments have been proposed to expand crisis services:

[Item 312 #2h \(Cordoza\)](#) and [Item 312 #2s \(Mason\)](#) would authorize local law enforcement agencies to contract for alternative custody services.

[Item 312 #3h \(Brewer\)](#) and [Item 312 #10s \(Hanger\)](#) would provide \$17 million in FY 2024 for the development of two Crisis Stabilization Units.

[Item 313 #11h \(Hope\)](#) and [Item 313 #4s \(Deeds\)](#) would provide \$2.5 million in FY 2024 to hire additional CSB staff to support Crisis Stabilization Units that are underutilized due to a lack of staff.

[Item 312 #8h \(Hodges\)](#) and [Item 312 #3s \(Locke\)](#) would provide \$70 million in FY 2024 to develop five new crisis receiving centers and to expand three to four existing crisis receiving centers.

[Item 312 #1h \(Reid\)](#) and [Item 312 #7h \(Delaney\)](#) and [Item 312 #7s \(Vogel\)](#) would provide \$16.1 million in FY 2024 for the one-time development costs to establish a regional Crisis Receiving and Stabilization Facility in northern Virginia.

VACo Contact: [Katie Boyle](#)

Watch Senator Jeremy McPike on the first episode of Commonwealth Conversations



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Key Dates for the 2023 General Assembly

As part of its organizational work on the first day of the 2023 session, the General Assembly adopted a procedural resolution on January 11 that sets out important dates and deadlines for the [2023 legislative session](#).

January 11: 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 Youngkin delivered the State of the Commonwealth address at 4 p.m.

January 13: Deadline for submission of budget amendments

January 20: 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 5: Money committees report budgets by midnight

February 7: Money committee budget proposals available by noon; “crossover” deadline for each chamber to complete work on legislation originating in that chamber (except for the budget bill)

February 9: Houses of introduction must complete work on budget

February 15: Deadline for each chamber to complete work on other chamber’s budget proposal and revenue bills and appoint conferees

February 20: Deadline for committee action on legislation by midnight

February 25: Scheduled adjournment *sine die*

April 12: Reconvened session for consideration of Governor’s amendments and vetoes

VACo Contact: [Katie Boyle](#)