

Capitol Contact

Virginia General Assembly

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Tuesday, February 7, 2023

Money Committees Release Budgets

The House Appropriations and Senate Finance and Appropriations Committees met on Sunday and reported their respective amendments to the introduced budget. As has been the traditional practice on “Budget Sunday,” Committee leadership outlined the priority elements of their respective proposals and provided preliminary information on the proposed amendments. The actual text of the budget amendments will be unveiled on Tuesday afternoon, February 7, and the full House and Senate will vote on the proposed budgets on Thursday, February 9.

The two budgets differ significantly in their levels of available resources, as the House Appropriations Committee retains proposals for tax relief included in the introduced budget, while the Senate Finance and Appropriations Committee removed approximately \$1 billion in proposed tax policy adjustments from the introduced budget. In his opening remarks, House Appropriations Chairman Barry Knight outlined the Committee’s areas of focus in developing its budget: ensuring structural soundness, expanding on investments made in 2022, and providing tax relief. The House Appropriations Committee’s budget goals included a focus on one-time expenditures, in order to guard against an expected economic downturn; the provision of salary increases; addressing the state’s mental health and addiction crises; enhancing investments made in 2022 in K-12, higher education, and health and human resources; and enhancing economic and workforce development activities. In her opening comments, Senate Finance and Appropriations Co-Chair Janet Howell indicated a reluctance to adopt further tax relief beyond the measures adopted in 2022, and underscored the importance of meeting commitments to restore funding that was reduced during the Great Recession. Major priorities for the Senate Finance and Appropriations Committee included K-12 staffing, to include full removal of the cap on

recognition of support position in the Standards of Quality; behavioral health; and employee compensation.

There are several areas of common interest in the two proposals. Both budgets propose enhancing the 5 percent salary increases for state employees, state-supported local employees, and K-12 instructional and support positions in FY 2024 that were included in the budget adopted in 2022 (and retained in the introduced budget) by 2 percent, for a total of 7 percent. Both budgets propose compensation increases for Community Services Board staff. Of particular interest to local governments, both committees put forward plans to rectify the error in the Department of Education's calculation tool, which over-estimated basic aid distributions to school divisions by approximately \$58 million in FY 2023.

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

K-12

House Appropriations Committee

- Provides \$4.9 million GF in FY 2023 to ensure that the per-pupil amount of basic aid and sales tax payments to school divisions is greater than the per-pupil amount of basic aid and sales tax payments that was originally and erroneously communicated by the Virginia Department of Education in June 2022. As [reported](#), the calculation tool overestimated the amount of funding school divisions should receive by \$58.1 million in FY 2023. In addition to the \$4.9 million, the House budget intends to offset this discrepancy by the net impact of the sales tax reforecast of \$84.8 million.
- Provides \$6.7 million in FY 2024 from remaining federal pandemic relief funding to expand the Virginia Literacy Act from grades K-3 to grades K-8 and provides \$13.9 million GF in FY 2024 for reading specialists in grades 6-8.
- Provides \$3 million GF in FY 2024 for instructional aides for schools that did not meet performance benchmarks for five or more school quality indicators based on the Board of Education's most recent accreditation calculations.
- Provides \$12 million in FY 2024 in Lottery proceeds for school security grants.
- Includes language modifying provisions of the School Construction Assistance Program by adding the principal portion of debt service payments on projects that have not yet been completed as an eligible use; clarifying that any project that began construction after July 1, 2022, may qualify for grant funds; allowing the most favorable year among three years of fiscal stress index data to be used to determine the grant award amounts; and requiring the program guidelines to address joint grant applications for regional school construction projects.

Senate Finance and Appropriations

- Includes \$58.1 million in FY 2023 to hold school divisions harmless with respect to the error in the Virginia Department of Education's calculation tool.

- Provides \$270.6 million in FY 2024 to eliminate the cap on recognition of support positions in the Standards of Quality, a long-sought priority for VACo.
- Provides \$38.6 million in FY 2024 for instructional assistants for schools not meeting three or more of the Board of Education’s performance benchmarks for school accreditation.
- Provides \$50 million for school security grants in FY 2024.
- Provides \$56.9 million in FY 2024 for the state’s share of four specialized support positions per 1,000 students.
- Provides \$27.5 million to fund reading specialists in grades 6-8.
- Contingent on FY 2023 revenues, provides \$100 million for school capital projects.

Compensation

House Appropriations

- Eliminates proposed teacher performance bonus that was included in the introduced budget. Redirects proposed bonus funds and adds \$64.5 million GF to enhance the 5 percent salary increase adopted in the June 2022 budget and retained in the introduced budget for instructional and support positions by an additional 2 percent, for a total salary increase of 7 percent in FY 2024. Directs the Department of Education to convene a workgroup to determine appropriate metrics for the state’s goals for teacher compensation.
- Redirects proposed funding for proposed bonus payments for state employees in the introduced budget to enhance the 5 percent salary increase adopted in the June 2022 budget and retained in the introduced budget for state employees and state-supported local employees by an additional 2 percent, for a total salary increase of 7 percent in FY 2024.
- Provides \$36.5 million for compensation increases for Community Services Board staff. The amendment explains that this amount equates to approximately 5 percent of CSB payroll.

Senate Finance and Appropriations

- Eliminates proposed teacher performance bonus and proposed teacher retention bonus that were included in the introduced budget. Enhances the 5 percent salary increase adopted in the June 2022 budget and retained in the introduced budget for instructional and support positions by an additional 2 percent, for a total salary increase of 7 percent in FY 2024. Provides a \$1000 bonus for instructional and support positions in December 2023. According to the materials provided on Sunday, no local match is required for this bonus payment.
- Enhances the proposed 5 percent salary increase adopted in the June 2022 budget and retained in the introduced budget for state employees and state-supported local employees by an additional 2 percent, for a total salary increase of 7 percent in FY 2024. Reduces proposed bonus for state employees in the introduced budget from \$1500 to \$1000.
- Provides \$50 million for compensation increases for Community Services Boards in FY 2024.

Elections

House Appropriations and Senate Finance and Appropriations

- Both proposals include \$1.4 million to increase the amount included in the introduced budget to reimburse localities for costs associated with administering the 2024 Presidential primary.

Environment and Agriculture

House Appropriations

- Deposits \$10 million into the Stormwater Local Assistance Fund in FY 2024.
- Provides \$355,000 in FY 2024 for the Center for Rural Virginia.

Senate Finance and Appropriations

- Deposits \$20 million into the Stormwater Local Assistance Fund.
- Provides \$12.9 million in FY 2024 for incentives to farm operators for the adoption of cost-effective nutrient management practices.
- Provides \$10 million for the Forest Sustainability Fund, which was created in 2022 and provides funding to localities that have adopted a use value assessment program for real estate devoted to forest use.
- Provides \$443,750 for the Center for Rural Virginia over the biennium.

Jails

Senate Finance and Appropriations

- Provides \$8.8 million to raise the per diem rate for local-responsible inmates from \$4 to \$6.

Public Safety

Senate Finance and Appropriations

- Provides \$2.1 million in FY 2024 in additional HB 599 funding for localities with police departments.

Transportation

House Appropriations

- Provides \$150 million GF in FY 2024 for widening Interstate 81 in Roanoke and Botetourt Counties.
- Includes \$55 million GF over the biennium for construction of an inland port in the Mount Rogers Planning District.

Senate Finance and Appropriations

- Contingent on FY 2023 revenues, provides \$250 million for high-priority improvements on Interstate 81.

- Provides \$10 million GF in FY 2024 for planning for an inland port in the Mount Rogers Planning District.

VACo Contacts: [VACo Legislative Team](#)

VACo Opposes Bill Eroding Sovereign Immunity for Medical Care Providers in Local or Regional Correctional Facilities

[SB 1379 \(Deeds\)](#), as introduced, waives sovereign immunity for health care providers employed by localities or by local or regional correctional facilities to provide medical services to prisoners for a claim of wrongful death or injury resulting from a negligent or wrongful act or omission in the provision of such medical services.

VACo, VML and the Virginia Sheriffs' Association spoke in opposition to the bill as sovereign immunity is an important tool for localities in performing their governmental functions. If employees are faced with being sued personally, it will become more difficult to hire for many positions and the cost of operating government services will dramatically increase.

The bill was amended by the patron to apply to physicians rather than the broader language of health care providers, and it passed the Senate Judiciary Committee by a narrow margin of 8-7. **VACo will continue to oppose** this bill as it progresses.

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

Modified PFAs Bill Addressing VACo's Concerns Passes Senate

[SB 1013 \(Edwards\)](#), as introduced, would have required a public waterworks owner to notify customers via mailings and newspaper publication when a water quality analysis reveals that PFAS chemicals are present in a water supply or when a PFAS contaminant exceeds maximum contaminant levels. VACo opposed the initial iteration of the bill because of the extensive public notification requirement as well as on the belief that this requirement would deter voluntary monitoring by water utilities.

SB 1013 was significantly [amended](#) to address VACo member concerns. Specifically, the amended bill states that after a waterworks owner receives finished water test confirming PFAS chemicals that exceeds the notification concentration, as defined in the bill, there are reporting steps to be taken. The waterworks must first report

their findings to the Department of Health, provide a public notice in the required consumer confidence report and shall provide additional public notice as the Department of Health may require on a case-by-case basis. VACo believes testing for PFAs chemicals is important and that more study and research of PFAs must be done to understand the full range of implications these forever chemicals may have on human health and our environment. VACo thanks Senator Edwards for working with stakeholders and hearing our concerns. SB 1013 [reported out](#) of the Senate Agriculture, Conservation and Natural Resources Committee and [passed the full Senate](#) unanimously.

VACo Contact: [James Hutzler](#)

Legislation Advances to Refine Process for Removal of Elected or Appointed Local Officers

Several bills under consideration this session seek to refine the process for removal of elected or appointed local officers. As introduced, [SB 1328 \(McClellan\)](#), would have established a process for recall elections for elected officers and officers appointed to elected offices, instead of the current judicial process. As revised in the Senate Privileges and Elections Committee, the bill would retain the existing judicial process, but would increase the required number of signatures for the petition to the court for removal from 10 percent to 30 percent of the total number of votes cast at the last election for the office that the officer holds. The bill also places guardrails on the timing of removal petitions by requiring the signatures to be collected within 90 days, and providing that signatures could not be collected within 75 days of a primary election or party nomination process and through the date of the next general election (if the officer is the winner of the primary election or party nomination process) or between the date of any general or special election in which the officer is a candidate and the thirtieth day after the officer takes office. This bill has passed the Senate.

[HB 2289 \(Williams\)](#) and [SB 1431 \(Surovell\)](#) make a series of clarifying amendments to the existing process for removal. The bills include the following provisions:

- Specify that the circuit court may remove an officer for neglect of “a clear, ministerial duty” of the office (current Code language speaks to “neglect of duty”).
- Stipulate that the petition for removal shall be on a form prescribed by the State Board of Elections.
- Require the general registrar to review the petition and determine its sufficiency; the general registrar would be required to certify the petition within ten business days and file a certification with the clerk of the circuit court.

- Require the Commonwealth’s Attorney to review the petition and determine if valid grounds exist to remove the officer; upon determining that valid grounds exist, the Commonwealth’s Attorney would be required to notify the circuit court.
- Include language requiring the court to determine by “clear and convincing evidence” that removal is warranted.
- Provide that the Commonwealth and the officer are the only parties to the action in the removal proceeding.

HB 2289 (Williams) is on the House floor. SB 1431 has passed the Senate.

VACo Contact: [Katie Boyle](#)

Fire Company Definition Bill Amended to Address VACo Concerns

On February 2, the House General Laws Subcommittee #1 heard testimony on [HB 1765 \(Carr\)](#), which as originally drafted, would expand the definition of Fire Companies in the Code of the Virginia to include firefighter support organizations whose purpose is to provide rehabilitation and support services to firefighters. The definition of a fire company is limited to volunteer firefighting organizations whose purpose is to extinguish fires. The intent of the bill was to broaden the definition to allow a support organization in the greater Richmond Region to qualify for public and private grants by qualifying as a fire company. Prior to the committee meeting, VACo expressed concerns to the patron over potential unintended consequences involving sovereign immunity, workers’ compensation, and the Line of Duty Act (LODA) in the bill language as originally drafted. VACo appreciates the patron working with VACo and adopting substitute language that still achieves the original intent of the bill without potentially imposing unintended consequences on local government. The Subcommittee recommended reporting the substitute, which subsequently reported from the full committee on a vote of 21-1.

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

Recordation Tax Distribution Bill Dies in Committee

[SB 1161 \(Stuart\)](#), as introduced, raises from \$20 million to \$60 million the amount of recordation tax revenue that should be annually distributed. This bill holds Hampton Roads Regional Transit harmless by keeping their \$20 million dollar allocation annually. The important change in this bill, and one VACo members will be delighted to hear, is that SB 1161 not only re-establishes the recordation tax

revenue that localities should receive, but this raises the amount from \$20 million to \$40 million.

SB 1161 was passed by indefinitely in during its initial hearing in the Senate Finance and Appropriations Committee by a vote of [15-0](#). While this is not the outcome VACo hoped for, we appreciate Senator Stuart for putting forth this legislation.

Senator Stuart also submitted two budget amendments regarding state recordation tax revenues being distributed to localities that could have been considered for inclusion into the amended budget. Of these amendments, one that VACo submitted [restores](#) the state recordation tax while another [increases](#) the amount allocated to localities. The money committees approved amendments to the budget were released in full on February 7. Senator Stuarts amendments were not included. VACo wants to thank Senator Stuart for submitting these budget amendments, and VACo will continue to support the restoration of state recordation tax revenues distributed to localities.

VACo Contact: [James Hutzler](#)

“Tik Tok” Bill Expanded to Include All Public Bodies Passes the House

[HB 2385 \(Brewer\)](#), as originally drafted, would prohibit any employee or agent of any executive branch agency or person or entity contracting with any such agency from downloading or using any application, including TikTok or WeChat, or accessing any website developed by ByteDance Ltd. or Tencent Holdings Ltd. (i) on any state-issued device or state-owned or state-leased equipment, including mobile phones, desktop computers, laptop computers, tablets, or other devices capable of connecting to the Internet, or (ii) while connected to any wired or wireless Internet network owned, operated, or maintained by the Commonwealth, among other provisions.

On February 1, the bill was amended on the floor of the House to expand to all public bodies, including local governments, and to any entities contracting with a public body. The legislation is meant to address cybersecurity [concerns](#) over the use of these applications and devices and how foreign adversaries of the United States may use them as data collection tools. As amended, the bill passed the House unanimously 99-0 and has been referred to the Senate General Laws and Technology Committee.

A similar bill, [SB 1459](#), passed the Senate by a vote of 21-20 on February 7.

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

Bill Prohibiting Localities to Regulate Towing Fees Passes House

[SB 979 \(Marsden\)](#) and [HB 1649 \(Wyatt\)](#), as introduced, would prohibit localities from setting limits on towing fees and other associated fees for trespassing passenger vehicles that are in localities without a local ordinance setting these fees. **VACo opposed** the initial legislation as we believe this pre-empts local authority and restricts the ability of local governments to respond to constituent concerns.

These bills have taken different paths since their introduction. SB 979 was heard in the Senate Transportation Committee and was passed by indefinitely, contingent with a Chairman's letter to direct the Secretary of Transportation and the Office of the Attorney General to convene a stakeholder workgroup where the intended contents and outcomes of SB 979 could be more thoroughly thought through with input from stakeholders.

[HB 1649 was amended](#) to now only allow towers and recovery operators to levy a \$30 fuel surcharge fee for each vehicle towed and prohibits localities from limiting or eliminating this fee. While the bill was amended in the right direction, **VACo opposes HB 1649** as currently constructed and spoke in opposition during its hearing in subcommittee and full committee. HB 1649, as amended, reported out of the House Transportation's Subcommittee on Transportation Infrastructure and Funding by a vote of [6-0](#) and reported out of the full House Transportation Committee by a vote of [17-5](#). It was heard by the full House of Delegates on February 7 and passed by a vote of 53-46. VACo will continue to follow this bill as it moves through the Senate.

VACo Contact: [James Hutzler](#)

Fireworks Bill Fizzles Out

On February 2, the House General Laws Subcommittee #1 heard testimony on [HB 1813 \(March\)](#), which among other provisions, would strip local government authority to regulate the sale of or use, ignition, or explosion of fireworks within a locality. This bill or ones with similar intent have been periodically introduced in past General Assembly sessions, and VACo has historically opposed the provisions that remove local authority. VACo testified with a broad group of interested parties including firefighting associations in opposition to the bill. The Subcommittee recommended laying the bill on the table by a vote of 6-1.

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

Bill to Prohibit Data Centers Within One Mile of a Park Fails

[SB 1078 \(Peterson\)](#), which prohibits the location of a data center within one mile of a national park or state park, failed in the Senate Rules Committee by a [vote of 13-4](#) last week. VACo spoke in opposition to the bill as it would encroach upon local authority to make land use decisions.

Similar pieces of legislation, all aimed at either limiting or prohibiting the siting of data centers, have failed in the House of Delegates. In regards to issues being raised about the increasing number of data centers locating in the Commonwealth, there is [SJ 240 \(Peterson\)](#), which directs the Virginia Department of Energy to study the impacts of data center development on Virginia's environment, economy, energy resources, and ability to meet carbon-reduction goals. SJ 240 passed the Senate unanimously and is headed to the House for consideration. The legislation also directs the Department to consult with a broad representation of stakeholders, including VACo.

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

Senator Barbara Favola | Commonwealth Conversations



[Watch the Interview](#) | [Watch the Mobile Video Short](#)

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](#)