

# 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, February 23, 2023

## Bill Creating New Stormwater Exemption for Tree Clearing Dies in Senate

[HB 2282 \(Edmunds\)](#), as amended, would have allowed for forest harvesting activities to be exempt from the Virginia Stormwater Management Program even if the land does not intend to be reforested or turned into agricultural use. In effect, these changes in the law could allow for land disturbance activities, not associated with future forestry and agriculture, to be exempt from stormwater regulations if the applicant cuts down the forested areas to harvest the trees. The concern is that this proposed exemption could lead to land disturbance activities for residential and commercial development to proceed without understanding full impacts to water quality and erosion.

HB 2282 has been controversial from the start with split votes as the bill made its way through the various committees in the House. HB 2282 would eventually pass its original chamber [narrowly](#). After crossover, the bill squeaked out of the Senate Agriculture, Conservation and Natural Resources by a vote of [8-7](#). The bill came to a final stop when it met its demise on the Senate floor, [16-24](#).

VACo wants to sincerely thank our members for their continued advocacy and for responding decisively to our multiple [Capitol Contact Alerts](#) on the matter. VACo will continue to advocate for local authority to preserve water quality and additional flexibility in preserving and replacing tree canopies.

**VACo Contact:** [James Hutzler](#)

# Update on Behavioral Health Legislation

As reported earlier in the session, several bills are under consideration to address aspects of the temporary detention process in an effort to relieve pressure on the state hospital system, as well as on law enforcement agencies. In addition, both the House and Senate budget proposals recommend additional investments in crisis services over and above the funding included in the introduced budget.

[HB 1792 \(Ransone\)](#) and [SB 1302 \(Deeds\)](#) seek to streamline the process of seeking a “medical temporary detention order [TDO]” by allowing a licensed physician who has attempted to obtain informed consent of an adult for treatment of a mental or physical condition that appears to be a result of intoxication to seek an order from the magistrate or the court authorizing temporary detention of the person in a hospital emergency department or other appropriate facility for testing, observation, or treatment upon a finding that (i) probable cause exists to believe the person's intoxication has rendered the person incapable of making or communicating an informed decision regarding treatment and (ii) the medical standard of care calls for observation, testing, or treatment within the next 24 hours to prevent injury, disability, death, or other harm to the person or another person resulting from such intoxication. Several working groups in the past have discussed options to treat individuals in these circumstances that would provide alternatives to inpatient hospitalization at state hospitals. HB 1792 has passed both chambers and SB 1302 is on the House floor.

[HB 1976 \(Bell\)](#) and [SB 1299 \(Deeds\)](#) are headed to a conference committee to resolve differences between the two bills. As HB 1976 passed the House, it would authorize the director of a facility where a person who is subject to a TDO (but has not been transported to the facility of temporary detention) is housed to request a psychiatrist or clinical psychologist, in consultation with the treating physician and the CSB, to perform a new assessment of the person. If the new assessment concludes that the person no longer meets commitment criteria, the CSB would then conduct an evaluation. Alternatively, the facility director could request the CSB or its designee, in consultation with the treating physician, to conduct an evaluation. Under either approach, if the CSB determined that the person no longer met commitment criteria, it could authorize the release of the person. SB 1299, as it passed the Senate, would allow the facility director to release the person if the CSB, in consultation with the treating physician, conducted an evaluation, determined that the person no longer met commitment criteria, authorized the release, and provided a discharge plan.

[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. The bill also allows an employee or contractor providing alternative transportation under contract with the Department of Behavioral Health and Developmental Services (DBHDS) who has completed training in the proper use of restraint may

use restraint if necessary to ensure the safety of the individual being transported or the safety of others, or to prevent escape when less restrictive techniques have been determined to be ineffective. This bill is on the House floor.

[SB 1512 \(Mason\)](#), which would have temporarily allowed certain individuals employed or contracted by hospitals with psychiatric emergency departments who met certain criteria to conduct evaluations for temporary detention orders, was tabled in a subcommittee of House Courts.

In addition, several bills and a series of budget amendments have been introduced that propose to implement recommendations from JLARC's study of the CSB system, which was released in December 2022.

[HB 2185 \(Rasoul\)/SB 1169 \(Hanger\)](#), which have both passed both chambers, strengthen requirements for oversight of CSBs through performance contracts with DBHDS. The bills require performance contracts to include provisions that enable DBHDS to enforce the contract in the event a CSB fails to substantially comply with contract requirements, including provisions for notification of the CSB executive director and chair, provisions for a remediation process to allow the CSB to come into substantial compliance, provisions for termination of all or part of a performance contract in the event of failure to come into substantial compliance, and provisions for an appeal of an enforcement action. These provisions take effect July 1, 2025.

[SB 1465 \(Hanger\)](#) refines Code sections dealing with the purpose of CSBs to clearly state their overall role (functioning as the single point of entry into publicly funded mental health, developmental, and substance abuse services in order to provide comprehensive mental health, developmental, and substance abuse services within a continuum of care) and also includes language specifying the purpose of behavioral health services provided by CSBs. The bill also requires performance contracts to set forth specific goals and objectives related to service delivery. This bill has passed both chambers.

Budget amendments that incorporate additional JLARC recommendations are listed below:

- **House:** Directs DBHDS to identify current documentation and reporting requirements for CSBs and eliminate requirements of direct care staff that are not essential, duplicative, or conflicting. ([Item 311 #2h](#)) Similar language is included in the Senate budget. ([Item 311 #18s](#))
- **House:** Directs DBHDS to report annually on CSB performance in improving consumer functioning. ([Item 311 #3h](#))
- **Senate:** Directs DBHDS to complete a comprehensive review of the performance contracts with community services boards and revise all performance measures, with a report due to the Behavioral Health

Commission by December 1, 2023, and changes to be implemented before the finalization of the FY 2025 performance contract. ([Item 311 #13s](#))

- **Senate:** Directs DBHDS to report CSB performance information, including any substantial underperformance or non-compliance and associated enforcement actions, annually to each CSB governing board, the Behavioral Health Commission, and the State Board of Behavioral Health and Developmental Services. ([Item 311 #14s](#))
- **Senate:** Directs DBHDS and DMAS to assess the extent to which community services boards (CSBs) are billing for Medicaid-eligible services they provide; provide technical assistance and training on appropriate Medicaid billing and claiming practices to relevant CSB staff; and evaluate the feasibility of a central billing entity that would handle all Medicaid claims for the entire system. ([Item 311 #17s](#))
- **Senate:** Directs DBHDS to report annually to the State Board of Behavioral Health and Developmental Services and the Behavioral Health Commission on average salaries, turnover, and vacancy rates by position type across community services boards. ([Item 311 #20s](#))
- **Senate:** Directs DBHDS to contract with one or more higher education institutions to establish training and technical assistance centers to provide training and technical assistance to preadmission screening clinicians. ([Item 312 #4s](#)).
- **Senate:** Directs DBHDS to amend CSB performance contracts to require that any funding appropriated by the General Assembly to CSBs for staff compensation shall be used only for staff compensation and to require that CSBs report annually to DBHDS on any staff compensation actions taken during the prior fiscal year. ([Item 312 #5s](#))

VACo Contact: [Katie Boyle](#)

## Plug Pulled on the Rural Electric Vehicle Infrastructure Fund

VACo spoke in support of [SB 1466 \(Marsden\)](#) and [HB 1588 \(Sullivan\)](#), which would create the Electric Vehicle Rural Infrastructure Program and Fund. This Fund would make available up to \$25 million each fiscal year and assist developers by offsetting up to 70 percent of the cost of electric vehicle charging stations. According to the provisions outlined in the bills, smaller and more rural Virginia localities would benefit from the passage of these bills, which met separate fates as crossover approached.

HB 1588, [as previously reported](#), died early in the Committee process before crossover while its companion passed the Senate and was taken up in the House. SB 1466 [reported favorably](#) in the House Agriculture, Chesapeake and Natural Resources Committee and was subsequently referred to House Appropriations Committee. The bill was left in this Committee and with no more Committee meetings scheduled, the bill is effectively dead. The concept could still be under consideration in budget discussions, as the Senate budget [included funding](#) associated with the creation of the Electric Vehicle Rural Infrastructure Program and Fund.

VACo for the first time added a position to its legislative platform supporting funding that provides for the availability and installation of electric vehicle charging stations. VACo staff was excited to stand in support of SB 1466 and HB 1588 and wants to thank the patrons for introducing the legislation. We will continue to report on this as updates become available.

**VACo Contact:** [James Hutzler](#)

## Retired Constitutional Officer Health Insurance Credit Bill Clears Assembly

[HB 1789 \(Filler-Corn\)](#), beginning July 1, 2024, would raise the amount of monthly health insurance credits (HIC) received by retired constitutional officers and their employees with a minimum of 15 years of creditable service from \$1.50 to \$1.75 per month per year of creditable service not to exceed \$52.50 per month. In the case of retirement for disability, the substitute increases the HIC to \$52.50 per month. The HIC for general registrars and their employees, and local social services employees remains at \$1.50 per year for those who retire with a minimum of 15 years of creditable service. This will likely add \$5.5 million to the unfunded liabilities of the constitutional officers' HIC plan.

The cash infusions included in the introduced budget for June 2023 and June 2024 will partially offset the increase in liability from the substitute and provide a net increase in liability of approximately \$3.9 million. These additional contributions were proposed to help bring the funding level of this plan up from its current status of just over 22.9%. As a result, the legislation will require an estimated increase in annual contributions of \$390,000 per year. This will impact the Compensation Board and political subdivisions that have constitutional officers. The costs will vary from employer to employer given their individual staffing levels. Any increase in employer contribution rates for the change in HIC will be included in the contribution rates for the biennium beginning in FY 2025.

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

## Delegate Keith Hodges | 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](#)