

Capitol Contact

Virginia General Assembly

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Bill to Preempt Local Authority to Regulate Short-Term Rentals Passes

By a [vote of 52 to 38](#), the House of Delegates passed [SB 544 \(Bagby\)](#). The legislation prohibits a locality from adopting a local ordinance that requires a special exception, special use, or conditional use permit be obtained for the use of a residential dwelling as a short-term rental where the dwelling unit is also legally occupied by the property owner as his or her primary residence.

VACo Opposes SB 544, as it erodes the ability of local elected officials to address potential impacts from the operation of short-term rentals within their communities.

The legislation now heads to the Governor for consideration.

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

Bills of Note Dealing with Transparency, Freedom of Information, and Public Notice Advance through Process

Transparency and Public Notice

- [HB 69 \(Bulova\)](#) requires the local governing body or elected school board making an interim appointment to fill a vacancy in the membership of such body or board to hold a public meeting at least seven days prior to making such

appointment. The bill specifies that at such meeting, the body or board shall announce the names of all persons being proposed for the interim appointment and shall make available for inspection each person's resume and any other materials required by the body or board. HB 69 has passed both chambers.

- [**HB 710 \(Webert\)**](#) and [**SB 549 \(Russet Perry\)**](#) are gone for this session. **VACo opposed these bills**, which provided that any travel expense of a local official, as defined in the bill, to be paid from public funds, that is anticipated to exceed \$2,500 shall be subject to approval in advance by a vote of the local governing body in an open meeting. The bill was amended to raise the rate to \$5,000. The House and Senate versions were killed in the Counties, Cities and Towns Committee's Subcommittee 3.
- [**HB 1488 \(Henson\)**](#) and [**SB 413 \(Head\)**](#) – **VACo supports these bills** that standardize the frequency with which and length of time in which notices of certain meetings, hearings, and other intended actions of localities must be published. The bills also standardize descriptive information in such notices related to (a) proposing, amending, or repealing ordinances; (b) local budget adoption; and (c) zoning ordinances and planning-related actions. The bills have sailed through both chambers and are headed to the Governor's desk.

Freedom of Information Act

- [**HB 894 \(Bennett-Parker\)**](#) and [**SB 734 \(Marsden\)**](#) – **VACo supports these bills**, which provide that (except for local governing bodies, local school boards, planning commissions, architectural review boards, and zoning appeals boards) any public body may hold all-virtual public meetings 2 times per year or no more than 50% of the meeting, whichever is greater, provided that they have an electronic meeting policy in place. Previously the limit was 25%. The bills have passed both chambers.
- [**SB 324 \(Roem\)**](#) – **VACo opposed this unfunded mandate bill as introduced**, as it provided every citizen of the Commonwealth, and representative of newspapers and magazines, to make four free two-hour FOIA requests per 31 consecutive days. The bill as originally filed also provided that after the 8 free hours per person, per month, the highest rate that a locality could charge is \$33/hour unless they successfully petition the court for a higher fee.
After meeting with stakeholders, the patron offered a substitute at the January 24 Senate Local Government Committee meeting, which passed unanimously. The substitute included provisions for one free hour per calendar year for each person, a cap of \$40 per hour and some language providing an exception for legal review by public bodies and requires the collection of data by public bodies for any request that takes over 30 minutes.

The current version of the bill, which passed both chambers, has a reenactment clause for the fee portion of the bill, meaning that it must be

reenacted in the 2025 session. However, the bill passed by both chambers does provide for a study of FOIA fees to be completed by November 30, 2024.

- **[SB 244 \(McPike\)](#) and [HB 816 \(Cherry\)](#) – **VACo supports these bills** that seek to validate otherwise lawful actions taken by a public body using electronic communication means occurring from March 20, 2020, until July 1, 2021. The bills sailed through both chambers and are headed to the Governor’s desk.**
- **[SB 36 \(Locke\)](#) and [HB 818 \(Cherry\)](#)**, which are worded slightly differently, amend the definition of “meeting” under the Freedom of Information act. **VACo supports these bills**, which amend the definition of "meeting" as it relates to the Virginia Freedom of Information Act (FOIA) to clarify that a gathering of two or more members of a public body is not a meeting if there is no discussion or transaction of any public business as defined in the bill. The bills are in response to the decision of the Supreme Court of Virginia in *Gloss v. Wheeler* (2023) . VACo is working with a group of stakeholders as these bills head to conference.

Procurement Bills

- **[SB 18 \(Locke\)](#) and [HB 1108 \(Carr\)](#)** limit the use of construction management or design-build contracts by state and local public bodies and covered institutions for complex projects. They require state public bodies, covered institutions, and local public bodies to provide documentation of the processes used for the final selection of a contract to all the unsuccessful applicants upon request. The bills require a local public body to adopt a resolution or motion to use construction management or design-build, if required by its local governing body, prior to issuing a Request for Qualifications and to publish notice of such resolution or motion on its website or eVA. Finally, the bills require the Department, with the assistance of staff of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations, assess implementation of construction management and design-build projects and report its findings and recommendations to the General Assembly by November 1, 2029. The two bills are slightly different and are working through the process in both chambers.
- **[HB 151 \(Helmer\)](#)** amends a statute passed 2 years ago that required state and local public bodies to design energy efficient buildings. The bill requires the Department of Energy, upon request, to provide technical assistance to localities, subject to available budgetary resources, as localities implement mandates related to onsite renewable energy generation, energy storage, and resilience standards for construction or renovation of certain public buildings. The bill also makes several technical and clarifying changes to the existing statute, in part by defining or redefining existing terms found in the statute. HB 151 is working through the process on a close vote.
- **[HB 311 \(Hope\)](#)** mandates that all local public bodies provide an option to submit bids or proposals for procurement contracts through the

Commonwealth's statewide electronic procurement system, known as eVA or other electronic means. Current law only encourages local public bodies to use eVA for such submissions. HB 311 passed both chambers.

- **[HB 1113 \(Carr\)](#)** raises the limits on Job Order Contracting annual threshold from \$6 million to \$10 million and the individual job order limit from \$500,000 to \$1 million. It also raises the number of annual renewals from 2 to 3. HB 1113 has passed both chambers.
- **[HB 1116 \(Carr\)](#)** raises the small purchase limit in the Virginia Public Procurement act for non-transportation related construction from \$200,000 to \$300,000. This bill is working through the process.
- **[HB 1273 \(Krizek\)](#)** would have required that for any capital outlay project, a public body shall require the contractor and subcontractors to complete specified safety training programs and participate in apprenticeship programs. At least 8% of the labor hours on the project shall be completed by apprentices. A local governing body or the Governor or his designee may waive this section for a specific project if there are not enough apprenticeship programs in the area or a disproportionately high ratio of material costs to labor hours makes the requirement not feasible. **This bill was continued to 2025.**

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

Finance Legislation Roundup

Meals taxes: Bills introduced in response to issues with meals tax collection in the City of Richmond were passed by indefinitely in Senate Finance and Appropriations on February 27. **[HB 1483 \(McQuinn\)](#)**, as initially introduced, applied to all localities and contained provisions that would have hampered local tax collections, but as amended prior to crossover, applied only to cities with directors of finance. The bill required that any voluntary meals tax payment accompanied by a tax return or written instructions as to its application would be applied in accordance with the return or written instructions, and that in this situation, the applicable statute of limitations would be extended by a period of 12 months. The bill also clarified the ability of the director of finance to waive any penalties and interest when he or she determined that such a waiver was in the best interest of the locality. After the amendment in the House to limit the bill's scope to certain cities, VACo removed its opposition to the legislation. Senate Finance and Appropriations Committee members opted to treat the bill in similar fashion to its Senate companion, which was passed by indefinitely earlier in the session. **[HB 1535 \(Jones\)](#)**, which was introduced at the request of the City of Richmond, was also passed by indefinitely in Senate Finance and Appropriations on February 27. The bill would have allowed any locality that requires local businesses to collect meals taxes to allow such businesses a commission of up to 5 percent in the form of a deduction from the tax remitted

(this commission is intended to compensate businesses for credit card processing fees and other administrative costs associated with collecting the taxes), without requiring that the business be up-to-date on its taxes to collect the commission.

Omitted local taxes: [HB 1503 \(Jones\)](#) was reported from Senate Finance and Appropriations on February 27 and is headed to the Senate floor. Chesterfield County had requested legislation to address a situation in which a local tax has not been assessed, or has been assessed at less than the law required. Under current law, in this case, the commissioner of the revenue (or other assessing officer) must issue corrected assessments and levy taxes on the new or supplemental assessment. The bill provides flexibility to the local governing body to work with taxpayers who receive a new or supplemental tax bill under these circumstances, and would allow the local governing body to authorize the local treasurer (or other officer responsible for the collection of taxes) to enter into an agreement with the taxpayer to allow payment of the taxes and any penalties and interest over a reasonable period, not to exceed 72 months, similar to existing Code provisions allowing for payment plans for delinquent real property taxes. **VACo supports the bill.**

Assessment notices: [HB 639 \(Sullivan\)](#) and its companion, [SB 677 \(Durant\)](#), have passed both chambers. HB 639 was requested by Arlington County and is intended to clear up confusion caused by 2023 legislation that required localities with annual or biennial assessments, or that conduct assessments in-house, to include information on the assessment notice regarding the “effective tax rate increase” – the amount by which the proposed rate exceeds the lowered rate that would offset increases in assessments. However, in some jurisdictions, the governing body has not yet proposed a tax rate when assessment notices are mailed, causing concerns among some localities as to how to comply with the law. HB 639 and SB 677 will provide clarity by specifying that the notice must include the lowered rate necessary to offset the increases in assessments and generate the same amount of real estate tax as the previous year (when growth in overall total assessed value of real estate would result in an increase of one percent or more in the total real property tax levied). **VACo supports this legislation as a clarification** to enable localities to comply with the policy decision enacted last year.

Personal property taxes: [HB 1429 \(Laufer\)](#) and [SB 483 \(Aird\)](#) have passed both chambers. The bills add certain farm machinery, equipment, and implements used by an indoor, closed, controlled-environment commercial agricultural facility to the list of types of property that local governing bodies may wholly or partially exempt from taxation, or tax at a different rate than the rate imposed on general tangible personal property. [HB 1502 \(Willett\)](#) and [SB 194 \(VanValkenburg\)](#) are headed to a conference committee to resolve differences between the bills. As introduced, the bills eliminated the sunset provision on the authorization for localities to impose a different tax rate on certain motor vehicles than the rate applicable to the general class of tangible personal property (legislation allowing this authority passed in 2022 with a January 1, 2025, sunset date). As amended in the Senate, the sunset date would be extended to January 1, 2027; the House approach would eliminate the sunset.

Taxation of heated tobacco products: [HB 1099 \(Kilgore\)](#) was introduced at the request of the Attorney General and is intended to ensure that Virginia remains in compliance with the 1998 Tobacco Master Settlement Agreement by revisiting changes made to the definition of “cigarette” in 2019 that excluded heated tobacco products from the definition of a cigarette. Although these products are not currently sold in the United States, the Office of the Attorney General (OAG) anticipates that a product may be introduced into the Virginia market this year, and the OAG is concerned that under the current statutory language, this product would not be required to be stamped, which could place Virginia out of compliance with the Master Settlement Agreement, thus placing Virginia’s annual payments from the Agreement in jeopardy. HB 1099 redefines heated tobacco products as cigarettes, which will require these products, when they are approved for sale in Virginia, to be stamped, and will make them subject to the state cigarette tax (although at a lower rate than the tax for traditional cigarettes), rather than the state “other tobacco products” tax. Defining these products as cigarettes will also make them subject to local cigarette taxes. To address concerns expressed by the distributors, who are responsible for stamping cigarettes, that existing cigarette tax stamps will not be able to be applied to this new product, language was added to the bill directing the Department of Taxation to develop a new stamp for heated tobacco products and barring certification of heated tobacco products for sale until the stamp has been developed.

VACo Contact: [Katie Boyle](#)

Information Technology Access Act Bill Carried Over and Sent for Study

[HB 1355 \(Tran\)](#) would have made numerous organizational changes to the Information Technology Access Act. The bill defines “information and communications technology” as it relates to digital accessibility, defined in the bill, for all persons with disabilities. The bill permits the head of each covered entity, defined in the bill, to designate an employee to serve as such covered entity’s digital accessibility coordinator and provides that such digital accessibility coordinator is responsible for developing and implementing such covered entity’s digital accessibility policy, among other provisions.

VACo requested a local fiscal impact [statement](#) from the Commission on local Government, which estimated a negative fiscal impact ranging from \$6,000 to \$2.4 million over the biennium. Localities identified the bill’s fiscal impact as the increase in personnel costs needed to hire a digital accessibility coordinator, integrators, and other contractors, as well as staff time to review vendor contracts for compliance; increased recurring operating costs for licensing subscriptions, compliant software, and policy development/compliance; and one-time operating expenses to replace

hardware. One County would need to rescope IT capital projects to develop custom solutions for each department of the County, resulting in one-time capital expenses.

VACo testified to these concerns at the February 28 meeting of Senate General Laws and Technology, which voted unanimously to carry the bill over to 2025 to the Department of General Services Procurement workgroup.

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

Update on Elections Legislation

Ranked choice voting: The two remaining bills dealing with ranked-choice voting were heard in the House after crossover. [SB 270 \(Subramanyam\)](#), which would have allowed for presidential primaries to be conducted via ranked-choice voting, at the option of the political party, subject to a feasibility determination by the state, was continued to 2025 in House Privileges and Elections. VACo had raised questions about how this legislation would be implemented since not every jurisdiction has the equipment or software necessary to conduct ranked-choice voting elections; although the bill as passed by the Senate contained a reenactment clause, House Privileges and Elections subcommittee members raised implementation concerns, including questions about whether national party rules would allow for ranked choice voting, and opted against moving forward with the legislation this session. (A similar bill, [HB 658 \(Cole\)](#), which applied to primary elections more broadly in its amended form, had already been continued to 2025 in House Privileges and Elections.) [SB 428 \(VanValkenburg\)](#), as introduced, would have allowed elections for local and constitutional offices to be conducted via ranked-choice voting if approved by the local governing body (currently, ranked-choice voting is allowed only for city council and board of supervisors elections), set out a framework for the logistics of conducting a ranked-choice voting election, and directed the Department of Elections to review the testing and approval framework for voting equipment in the Commonwealth. As amended in the House, the bill no longer expands ranked choice voting beyond what is currently authorized, but retains the provisions setting out requirements for the ranked-choice voting process, should a locality opt for this method. The bill has been recommended for reporting by a subcommittee of House Privileges and Elections and is scheduled to be heard by the full committee on Friday.

Timeline for local certification of election results: [HB 998 \(Anthony\)](#), a helpful bill to provide local electoral boards with three additional days to certify election results and submit the abstract of results to the State Board of Elections, has passed both chambers. This bill incorporates similar legislation that was introduced at the request of Fairfax County. **VACo supports this legislation.**

Virginia Voting Rights Act revisions: As introduced, [HB 623 \(Price\)](#) proposed several revisions to the state-level preclearance process established in 2021:

- Allowing any organization whose membership includes voters who are members of a protected class or any organization whose mission includes voting access to initiate a cause of action for violations of voting rights laws or to challenge a “covered practice” (changes to certain aspects of elections, such as changes to election district boundaries or certain changes to polling places).
- Adding to the definition of “covered practice” any reduction in the number of voter satellite offices in the locality or reduction in the number of days or the hours of operation of a voter satellite office in the locality.
- Requiring the Circuit Court of the City of Richmond to be the venue for causes of action.

VACo raised concerns when the bill was heard in subcommittee in the House about the latter two provisions of the legislation, citing the potential challenges involved in requiring changes to voter satellite locations, or to their dates or hours of operation, to go through the preclearance process (a 45-day notice period, which includes 30 days for public comment, then an additional 30-day waiting period, during which time the covered practice may be challenged, or the alternative route of seeking a certification of no objection from the Attorney General), and the burden on jurisdictions that are far from the capital if all cases must be heard in Richmond. The patron offered amendments in Senate Privileges and Elections to allow local governing bodies to establish a plan each year for the number and location of voter satellite offices and their dates and hours of operations; the dates and hours could vary based on the type of election, and the plan may include parameters for permissible deviations. As long as changes in the number of voter satellite locations or their dates and hours of operation were conducted in accordance with the local plan, these changes would not be considered covered practices and subject to the state-level preclearance process. Venue for causes of action would remain in the Circuit Court for the City of Richmond in the revised bill, which was reported by Senate Privileges and Elections on Tuesday. Although VACo continues to have concerns regarding the venue provisions, the bill has been improved from its introduced version.

List maintenance: [HB 1177 \(Sickles\)](#) and [SB 606 \(VanValkenburg\)](#) direct the Commissioner of Elections to reinstate the Commonwealth’s membership in the Electronic Registration Information Center. Both bills have passed both chambers. **VACo supports these bills.**

Voter satellite offices for early voting: As previously reported, voter satellite offices were the subject of several bills this session. [HB 1408 \(Srinivasan\)](#), which has passed both chambers, directs the Department of Elections to develop standards

and guidelines for use in determining the number of voter satellite offices to establish for a general election and the relative locations of such satellite offices. This bill, rather than more prescriptive legislation [setting a certain population threshold for the establishment of satellite offices](#) or [requiring the operation of satellite offices on certain college campuses](#), was the House's preferred approach. The other bill dealing with the location of satellite offices, [HB 942 \(Shin\)](#), does not appear to be moving forward this session. As introduced, this bill would have allowed tribal governments to request the establishment of a voter satellite office on a tribal reservation on the first and second Saturday preceding the general election, directed a governing body to consider certain factors in establishing voter satellite offices, and barred the use of a police station or sheriff's office from being used as a voter satellite office. The bill was amended in the House to deal only with the prohibition on use of law enforcement facilities as satellite offices; during the bill's hearing in the Senate last week, committee members encouraged the provision of additional time for affected localities to comply. An amended bill was considered on Tuesday, but additional concerns were raised, and it is uncertain whether the bill will be reconsidered prior to the March 4 deadline for committee action on legislation. [HB 1490 \(Reaser\)](#), which would have authorized the local governing body to prescribe dates and hours of operation for satellite offices (in accordance with existing Code requirements) and prohibited any reduction in dates or hours of operation from being enacted within 60 days of a general election, was continued to 2025 in Senate Privileges and Elections in favor of the approach taken in HB 623. Under current law, the governing body may establish the locations of satellite offices by ordinance and the electoral board sets dates and times of operation.

Removal of officers: [HB 265 \(Simon\)](#) makes a series of amendments to the statutes dealing with removal of officers. As the bill heads to the Senate floor from Senate Privileges and Elections, it contains the following provisions:

- Requires that all signatures for the petition of registered voters to the circuit court that starts the removal process to be collected within 90 days.
- Provides that the attorney for the Commonwealth shall request that the court dismiss a petition, and that the court must do so, if the factual or legal allegations in the petition are not materially different than the allegations in a previously filed petition, or that were litigated in a trial resulting from a previously filed petition that was against the same officer and that was dismissed with prejudice or that did not result in the subject's removal from office.
- Stipulates that if the local Commonwealth's Attorney has a conflict of interest or is otherwise unavailable, the Chief Justice of the Commonwealth would appoint an alternate attorney to receive a copy of the petition and to represent the Commonwealth in proceedings.

- Prohibits discovery for removal proceedings prior to the attorney for the Commonwealth notifying the circuit court that the petition presents valid grounds for removal.

VACo Contact: [Katie Boyle](#)

Key Dates for the 2024 General Assembly

As part of its organizational work on the first day of the 2024 session, the General Assembly adopted a procedural resolution on January 10 that sets out important dates and deadlines for the 2024 legislative session.

- **January 10:** General Assembly convened at noon. Bills that were “prefiled” were due to be submitted by 10:00 a.m. Bills affecting the Virginia Retirement System, or creating or continuing a study, were required to be filed by adjournment of the floor session.
- **January 12:** Deadline for submission of member budget amendments.
- **January 19:** 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 13:** “Crossover” deadline for each chamber to complete work on legislation originating in that chamber (except for the budget bill).
- **February 18:** “Budget Sunday,” the deadline for the “money committees” to report their respective budgets by midnight.
- **February 22:** Deadline for each chamber to complete consideration of its budget bill.
- **February 28:** Deadline for each chamber to complete consideration of the other chamber’s budget bill and revenue bills.
- **March 4:** Deadline for committee consideration of legislation, by midnight.
- **March 9:** Scheduled adjournment *sine die*.
- **April 17:** Reconvened session for consideration of Governor’s amendments and vetoes.

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