

# Capitol Contact

## Virginia General Assembly

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Tuesday, February 11, 2025

# **ACTION ITEM: Oppose Bill to Preempt Local Land Use Authority**

**HB 2641 (Helmer)** establishes a three-member Housing Approval Board with authority to overturn local land use decisions and to automatically approve such applications that will have the effect of increasing the supply of housing in a locality, if a locality has not made a “good faith effort” to meet required housing targets over a five-year period. Beginning January 31, 2032, an applicant who seeks local government approval for a residential development that will have the effect of increasing the supply of housing in a locality and has that application rejected may appeal such decision to the newly created Housing Approval Board. HB 2641 was approved by the Senate Local Government Committee by a vote of **7 yes – 6 no – 2 abstentions** and referred to the Senate Finance and Appropriations Committee for further consideration.

**ACTION REQUIRED** – Call members of the **Senate Finance and Appropriations Committee** today to oppose SB 2641.

The process for overturning local land use decisions begins January 1, 2027, with every locality mandated to increase its total housing stock by an average of 1.5 percent growth per year for five consecutive years in order to meet a total 7.5 percent growth target.

To be “deemed” at making “a good faith effort” to meet targets, every locality is required to develop a housing growth plan that must include at least three of the following nine actions:

1. Eliminate minimum lot size requirements or reduce such requirements by at least 25 percent.

2. Increase building height limits for dwelling units by at least 25 percent.
3. Simplify the permitting procedures for multifamily housing and shorten the average time to receive final approval for multifamily housing projects by at least 25 percent.
4. Modify zoning ordinances to allow for high-density housing, including multifamily units such as apartments and condominiums, on land previously zoned for single-family use.
5. Allow multifamily housing as a permitted use on all lots where office, retail, or commercial is the primary permitted use.
6. Rezone land for higher-density housing near transit stations, places of employment, higher education facilities, and other appropriate population centers.
7. Implement a plan to repurpose underutilized office parks and strip malls for multifamily housing.
8. Eliminate requirements for off-street parking minimums per dwelling unit or reduce such requirements by at least 25 percent.
9. Eliminate aesthetic, material, shape, bulk, size, floor area, and other massing requirements for multifamily developments.

### **KEY POINTS**

- State law currently requires localities to include in their comprehensive plans ... *the designation of areas and implementation of measures for the construction, rehabilitation and maintenance of affordable housing, which is sufficient to meet the current and future needs of residents of all levels of income in the locality while considering the current and future needs of the planning district within which the locality is situated.*
- HB 2641 preempts local land use authority and creates an unnecessary bureaucracy at the state level with policies and targets for affordable housing that are more appropriate for localities and regions to establish.

### **KEY CONTACTS**

- [\*\*SENATE FINANCE AND APPROPRIATIONS COMMITTEE\*\*](#)

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

# Troublesome Litigation Bond and Letter of Credit Bills Advance

**[SB 999 \(Surovell\)](#)** increases the required suspending bond amount for appeals from one year's interest (calculated from the date of the notice of appeal) to the full value of the judgment plus two-and-a-half years of interest. Additionally, it grants appellate courts discretion in assessing attorney fees, costs, and expenses against indigent defendants when their convictions are upheld on appeal, whereas current law mandates such assessments. SB 999 also provides that a panel of the Court of Appeals may dispense with oral argument if the facts and legal arguments are adequately presented in the briefs and record, and the decisional process would not be significantly aided by oral argument, which may reduce the length of time for an appeal to be heard. SB 999 passed the Senate with a 32-8 vote and has been sent to the House Courts of Justice Committee for consideration after it passed House Courts Civil Subcommittee 8-0.

**[HB 2351 \(Hernandez\)](#)**, as introduced, removes the existing \$25 million cap on suspension bonds and irrevocable letters of credit for appellants during civil action appeals. A substitute of the introduced bill added a \$200 million cap in place of the \$25 million cap. HB 2351 passed the House unanimously (99-0) and has been sent to the Senate Courts of Justice Committee where the substitute was reported on a 14-1 vote.

Both bills amend § 8.01-676.1 of the Code of Virginia regarding civil litigation, suspension bonds, and irrevocable letters of credit upon appeal. VACo has expressed concerns to the patrons of these bills, as they may significantly increase liability insurance costs for local governments and other entities. Additionally, the proposed changes could lead to larger settlements to avoid costly litigation and appeals.

VACo Contacts: **[Jeremy R. Bennett](#)** and **[Phyllis Errico, Esq., CAE](#)**

## Post-Crossover Update: Human Services Legislation

**Juvenile detention legislation:** **[SB 1432 \(Marsden\)](#)**, which would have required the closure and consolidation of seven juvenile detention centers by January 1, 2026, failed to emerge from committee before crossover. VACo opposed this legislation, maintaining its position that any decisions regarding consolidation should be made by the affected local governments so that the full spectrum of community needs can be considered, to include opportunities for the reinvestment of savings into the provision of additional services, as well as potential drawbacks,

such as housing youth farther from their families and communities. VACo thanks its members for their advocacy in raising concerns with legislators.

**Children’s Services Act: [SB 801 \(Favola\)](#)**, which has passed the Senate and awaits final passage on the House floor, adds children and youth who are determined to be a “child in need of services” to the list of populations eligible to be served by the state pool of CSA funds. Since 2007, children and youth in this category have been eligible for CSA funding based on an opinion by the Attorney General that Family Assessment and Planning Teams (FAPTs) could use the statutory definition of a “child in need of services” to consider a child part of the mandated population and provide foster care services through parental agreements, without requiring the parents/guardians to relinquish custody. This opinion responded to situations in which some localities had interpreted state Code to mean that the only mechanism for a child to qualify for mandated CSA services was for the parents or guardians to relinquish custody to the local Department of Social Services.

## **Behavioral Health**

**[HB 1895 \(Willett\)](#)** and **[SB 1094 \(Jordan\)](#)** expand the definition of a “psychiatric emergency department” to remove the requirement that a psychiatric emergency department be located adjacent to a facility licensed by the Department of Behavioral Health and Developmental Services (DBHDS) and to add requirements that a psychiatric emergency department (i) be licensed by either DBHDS or the Department of Health and (ii) provide that at least one physician who is primarily responsible for the emergency department be on duty and physically present at all times that the hospital is operating as an emergency service. Under a pilot program authorized in 2024 and set to expire in 2026, certified evaluators who meet certain criteria, but are not employees or designees of the local CSB, are authorized to conduct evaluations in hospitals with psychiatric emergency departments in the City of Hampton to determine whether individuals meet criteria for temporary detention orders. Both bills have passed their originating chambers and await a committee hearing in the Senate and House, respectively.

**[HB 2534 \(Sewell\)](#)** and **[SB 1304 \(McPike\)](#)** would allow more flexibility in providing crisis stabilization services in facilities with more than 16 beds by directing the Department of Medical Assistance Services (DMAS) to seek necessary federal approvals to remove the prohibition on providing crisis stabilization services for nonhospitalized individuals in “institutions for mental disease” and authorizing DMAS to make regulatory changes upon receiving federal approval. Generally, under federal law, Medicaid cannot cover services in these settings, which are defined to include hospitals, nursing facilities, or other institutions with more than 16 beds that are primarily engaged in providing diagnosis, treatment, or care of individuals with mental illness, including substance use disorders. This legislation would work in tandem with language and funding in the Governor’s introduced budget to allow DMAS to pursue a Medicaid waiver to allow coverage for services provided during short-term stays for acute care in psychiatric hospitals or

residential treatment settings that qualify as Institutes of Mental Disease (such as crisis stabilization units). VACo supports these efforts. Both bills have passed their respective houses of origin.

[\*\*HB 2714 \(Wilt\)\*\*](#) allows DBHDS to reallocate developmental disability waiver slots among CSBs or regions if a waiver slot is unassigned and unused for a 30-day period, and no individual on the Priority One waitlist is identified within the CSB catchment area or region. This bill has passed the House.

[\*\*HB 2754 \(Singh\)\*\*](#) and [\*\*SB 870 \(Favola\)\*\*](#) allow certain records of incarcerated adults and youth who have been committed to the Department of Juvenile Justice to be shared for the purposes of providing pre-release services, reentry planning, and post-incarceration placement and services. The bills allow information sharing with DMAS for youth who have been committed to the Department of Juvenile Justice, for record information covering the period prior to and up to 30 days following release from commitment; for adults in local and regional jails, the bill allows information sharing with DMAS, the Virginia Department of Social Services, and the local department of social services. This legislation will facilitate coverage of these services via Medicaid; certain services are currently required under federal law for juveniles for 30 days prior to and 30 days after release, and limited coverage prior to release could be authorized for adults if a waiver request is submitted by the state and approved by the Centers for Medicare and Medicaid Services.

[\*\*SB 841 \(Favola\)\*\*](#) is a recommendation of the Joint Commission on Health Care from its study of enhancing access to health care for vulnerable populations. The bill directs the Board of Pharmacy to collaborate with the Department of Behavioral Health and Developmental Services to develop and implement a process by which opioid treatment programs can apply for and receive the necessary permissions and waivers to allow dispensing of opioid use disorder treatment medications from mobile units. This bill has passed the Senate.

## **Social Services**

[\*\*HB 1617 \(McClure\)\*\*](#) allows a copy of a vital record, or a driver's license, driver privilege card, or special identification card, to be provided to a homeless youth at no charge. This bill is headed to the Senate floor.

[\*\*HB 1733 \(Cole\)\*\*](#)/[\*\*SB 1372 \(Suetterlein\)\*\*](#) are recommendations from the Commission on Youth from its 2024 study on relief of custody. These bills would require the local department of social services, as part of its investigation when a petition for relief of custody is filed, to refer the parent to the local family assessment and planning team and create a written report regarding the history of the child and family. The bills require the Department of Social Services, in collaboration with the Virginia League of Social Services Executives, to create a template for the written report, and direct the Office of the Children's Ombudsman to convene a work group to determine the factors a court should consider for good

cause shown to grant a petitioner's petition for relief of care and custody of a child. HB 1733 is on the Senate floor and SB 1372 has passed both chambers.

**[SB 773 \(Favola\)](#)** directs local departments of social services to develop a housing plan for an individual who is aging out of foster care, in consultation with the individual and within 90 days of the individual's 18<sup>th</sup> birthday (or 21<sup>st</sup> birthday, for participants in the Fostering Futures program). The housing plan is required to include a description of housing options being pursued for the individual, including an explanation as to why each option is in the individual's best interest. If the housing plan does not contemplate the individual receiving a housing choice voucher, an explanation is required to be included in the housing plan explaining why the individual is (i) not at risk of homelessness, (ii) not prepared for independent living, or (iii) not otherwise in need of a primary residence for independent living. The bill authorizes the Virginia Department of Social Services to enter into a memorandum of understanding with local public housing authorities or housing programs to facilitate access to certain grant dollars. The bill also directs local departments of social services to collaborate with local housing authorities to secure certain housing vouchers for individuals aging out of foster care or individuals who have recently left foster care who are at risk of homelessness. This bill is in committee in the House.

**[SB 818 \(Favola\)](#)** requires a local department of social services, if it is serving as representative payee for a child receiving benefits from the Social Security Administration or the U.S. Department of Veterans Affairs, to provide notice to the child (if the child is 12 or older), the child's parent, guardian, or next of kin, or guardian ad litem or counsel, if applicable, that it is acting as the child's representative payee within 30 days after receiving the first benefit payment. This bill is on the House floor. A related bill, **[HB 2457 \(Glass\)](#)**, would direct the State Board of Social Services to amend its regulations by January 1, 2026, to (i) require local departments of social services to apply for federal benefits on behalf of children in foster care, (ii) prohibit the use of military survivor benefits to pay for the care and support of children in foster care that the Commonwealth is otherwise obligated to fund, and (iii) require local departments of social services that are representative payees for children in foster care to conserve such military survivor benefits in an appropriate trust instrument or protected account. This bill is on the House floor.

### **Failed bills of interest**

**[HB 1710 \(Gardner\)](#)** would have directed DMAS to convene a stakeholder work group to assess and make recommendations related to reimbursement rates for the federal Early Intervention Program for Infants and Toddlers with Disabilities. VACo supported this legislation, which was reported from its originating committee but failed to report from House Appropriations.

**[HB 1964 \(Tata\)](#)** would have established the Future in Focus program to support young adults (ages 21-23) who participated in the Fostering Futures program.

Participation would be voluntary and open to youth who are completing secondary education or an equivalent credential; enrolled in postsecondary or vocational education; employed for at least 80 hours per month; participating in a program or activity designed to promote employment or remove barriers to employment; or incapable of doing any of these activities due to a medical condition. Participants would be eligible for a monthly stipend and case management. The bill failed in the Senate Finance and Appropriations Committee due to concerns over its fiscal impact.

[\*\*SB 1451 \(Srinivasan\)\*\*](#) would have directed DMAS to seek necessary federal authority to provide supplemental payments to Medicaid members to be used for transportation to medical appointments when other transportation options are not available. The bill failed in Senate Finance and Appropriations. The House budget includes \$1 million in FY 2026 for a pilot program to provide non-emergency medical transportation services for uninsured Virginians living in medically underserved or unserved areas in the catchment area of a federally qualified health center, with priority given to serving persons living in rural localities.

VACo Contact: [Katie Boyle](#)

## General Assembly Convenes, Adopts Schedule for 2025 General Assembly Session

Key dates for the 2025 session, as approved by the General Assembly in its procedural resolution, are as follows:

- **Wednesday, January 8:** General Assembly convenes. Last day to introduce legislation creating or continuing a study, or legislation regarding the Virginia Retirement System
- **Friday, January 10:** Deadline for Senate budget amendments
- **Monday, January 13:** Governor’s State of the Commonwealth Address; last day to pre-file legislation (by 10 a.m.); deadline to submit House budget amendments
- **Friday, January 17:** Last day to file bills, except for bills offered by unanimous consent or bills submitted on behalf of the Governor
- **Sunday, February 2:** “Budget Sunday” deadline for House Appropriations and Senate Finance and Appropriations Committees to report their respective

budgets by midnight

- **Tuesday, February 4:** “Crossover” deadline for each chamber to complete work on legislation originating in that chamber (except the budget bill)
- **Thursday, February 6:** Deadline for each chamber to complete work on its budget bill
- **Wednesday, February 12:** Deadline for each chamber to complete consideration of the other chamber’s budget bill and revenue bills
- **Monday, February 17:** Deadline for committee action on legislation by midnight
- **Saturday, February 22:** Scheduled adjournment *sine die*
- **Wednesday, April 2:** Reconvened session for consideration of Governor’s amendments and vetoes

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