



VMI

February 10, 2009

Legislative Bulletin

A digest of legislative news from the General Assembly affecting local governments.

Find it fast

➤ *Indicates active link*

- Budget
- Education
- Eminent Domain
- Environment
- FOIA
- Human Services
- Land Use
- Local Authority
- Personnel
- Public Safety
- Retirement/Benefits
- Taxes/Revenues
- Transportation
- Utilities
- Miscellaneous

Upcoming

In lieu of publishing a *Legislative Bulletin* on Thursday, VML legislative staff will distribute an analysis of the House and Senate budget amendments of most interest to local governments. Stay tuned.

Senate passes clean energy finance program for localities

AN ENABLING STATUTE that would give localities the authority to create a clean energy loan program passed the Senate and is headed to the House for consideration.

The purpose of the program is to make installation of renewable energy systems (such as photovoltaic) and/or energy efficiency improvements (such as windows and insulation) affordable by providing low-interest rates, longer terms and easy application.

Such an initiative could be established as a revolving loan program and would be eligible to receive federal funding through [Energy Efficiency and Conservation Block Grants \(EECBG\)](#) established through the Energy Independence and Security Act of 2007. Substantial funding for these grants is part of the stimulus plan being debated in Congress.

[SB 1212](#) (Deeds) also allows for repayment on loans to be combined with billings for water and sewer charges or real property tax assessments and would be applicable to both residential and commercial property. This particular feature allows for the cost of the energy improvements to travel with the property if it is sold over the period of the loan financing, thereby removing a key barrier for investment in renewable energy and energy efficient systems.

Continues on next page

Inside ...

- House poised to pass school construction bill
- Eminent domain bill alive; needs local attention
- Bill awarding attorney fees in gun cases advances

Legislative links ➤ [Find a bill \(state LIS\)](#)
➤ [State budget Web site](#)

Dialogue

“The combination of teenagers with a provisional license using a cell phone is deadly.”

... Sen. George Barker of Fairfax, arguing in favor of his bill – SB 1227 – to make it a primary offense for teenagers with provisional licenses to talk or text on a cell phone while driving. From the Feb. 10 *Virginian-Pilot*.

Cover story continued ...

The original draft of the bill would have granted the authority solely to Charlottesville. VML thanks Sen. Creigh Deeds for amending the legislation to provide the authority to all local governments.

If passed by the General Assembly, VML's [Go Green Virginia](#) program will promote these revolving loan funds to counties, cities and towns.

Staff contact: Joe Lerch (jlerch@vml.org)

Education

School building fund bill advances; passage up in air

The House of Delegates is likely to give final approval today to [HB 2018](#) (Rust), which creates the Virginia School Construction Revolving Fund for financing elementary, secondary, or vocational education school projects. The Senate Finance Committee, however, nixed similar legislation – [SB 1226](#) (Barker) – earlier this session.

The same legislation was initiated by House Speaker Bill Howell last session.

Staff contact: Mary Jo Fields (mfields@vml.org)

Eminent Domain

House resolution passage likely; Senate panel rejects constitutional amendment

[HJR 725](#) (Bell), a constitutional amendment restricting eminent domain authority for state government, local governments and other agencies having condemnation authority, is likely to be approved today by the House of Delegates. The House Privileges and Elections Committee voted 17-4-1 to report the bill.

It is imperative that local governments continue to oppose this resolution until it is heard in the Senate Privileges and Elections Committee. This committee failed to report [SJR 290](#) (Obenshain) earlier this session, which proposed a similar amendment.

Please be sure to thank the senators who voted to table: Howell, Deeds, Whipple, Edwards, McEachin, Petersen, Barker and Northam. Voting against tabling, or for the amendment, were: Sens. Martin, Stolle, Obenshain, Puckett, Blevins, Smith and Vogel). The senators appeared to be persuaded that it would

be premature and inappropriate to amend the constitution in light of the comprehensive statutory reform enacted in 2007.

Staff contact: Randy Cook (wrcook@mmecpc.com)

Local Authority

Religious freedom bill defeated by Senate panel

The Senate Courts of Justice Committee passed by indefinitely a bill that would have prohibited governmental agencies from setting rules regarding the content of prayers, invocations, etc., offered at public events.

[SB 1072](#) (Martin) would have allowed sectarian prayers at public events, and raised the potential for numerous lawsuits to be filed against local governments and other governmental entities.

Committee staff said that the bill as written could be unconstitutional. Be sure to thank the senators who voted to pass the bill by: Marsh, Saslaw, Stolle, Norment, Howell, Lucas, Edwards, Puller and Deeds. Voting to not pass by were Sens. Quayle, Reynolds, Cuccinelli, Obenshain, McDougle and Hurt.

Staff contact: Kimberly Pollard (kpollard@vml.org)

Public Safety

VML needs feedback on Law Enforcement Officer Procedural Guarantee Act bill

[SB 1541](#) (Stolle) provides that an officer shall be given reasonable notice before being questioned in an investigation. The bill also provides that if any procedural guarantees are intentionally denied to an officer during the investigative process, the information garnered may not be used against him.

VML staff is interested in your feedback on the substitute version of the bill to determine if any additional changes to it are necessary.

The bill is likely to pass the Senate today (Feb. 10). It was reported 13-2 from the Senate Courts of Justice Committee on Feb. 8.

Staff contact: Kimberly Pollard (kpollard@vml.org)

Attorney fee gun case bill amended, reported

SB 1513 (Smith), as amended, allows courts to award reasonable attorney fees, expenses and court costs to any entity that prevails in an action challenging an ordinance, resolution, motion or administrative action as being in conflict with a locality's authority to control firearms pursuant to § 15.2-915. The original version of the bill *required* courts to award fees, expenses, etc.

HB 1655 (Carrico), the companion bill on the House side, still includes the language requiring the court to award reasonable attorney fees.

Staff contact: Kimberly Pollard (kpollard@vml.org)

Retirement/Benefits

Passage of enhanced retirement benefits for jail authorities likely

HB 2065 (Hamilton) and **SB 1388** (Stolle) require that enhanced retirement benefits be provided to employees of regional jails. Cities and counties were required to extend these benefits to sheriffs and deputy sheriffs in 2007, but regional jail authorities were not included in that legislation. All but four authorities already extend these benefits to their deputies.

The enhanced benefits for the deputies include retirement at age 50 with 25 years of service and an annual retirement supplement until Social Security retirement age. In addition, the jail authorities would have the option of increasing the multiplier to 1.85 percent of salary. The annual cost to the affect authorities is about \$1 million a year, which will be reflected in higher retirement contribution rates. **HB 2065** passed the House and was reported today (Feb. 10) by Senate Finance; **SB 1388** is on the floor for its final vote today. The bills differ slightly in that the Senate bill also requires the higher multiplier be paid the regional jail superintendent and allows for the higher benefits for the superintendents and deputies to be phased in over a five-year period.

Staff contact: Mary Jo Fields (mfields@vml.org)

Senate OKs OPEBs trust bills; House passage uncertain

SB 1355 (Wagner) allows the VRS to manage local trust funds for the payment of OPEBs (other post employment benefits). **SB 1355** has passed the Senate and will be referred to the House Appropriations Committee, which earlier this session defeated similar legislation – **HB 1827** (Fralin). House Appropriations has been the killing field for this legislative initiative for the last three years.

Staff contact: Mary Jo Fields (mfields@vml.org)

Defeated

HB 1915 (Crockett-Stark) would have excluded police departments and sheriffs offices from paying investigative charges associated with applications for Line of Duty benefits.

HB 1960 (Matthieson) would have required employers to continue offering health insurance benefits to employees (and eligible beneficiaries) receiving Line of Duty benefits

HB 1742 (Pogge) would have permitted locality to provide for automatic enrollment of all employees in a deferred compensation plan.

HB 1858 (Shannon) would have allowed localities to raise the multiplier for all employees from the current 1.70 percent of average final compensation to 1.85 percent.

HB 2154 (Purkey) would have established a define contribution plan in lieu on the defined benefits plan under VRS.

SB 1327 (McEachin) would have raised the health insurance credit for all school employees (not just teachers).

SB 1205 (Puckett) would have allowed localities to extend enhanced retirement benefits to constitutional officers and local chief administrative officers.

Taxes/Revenues

Senate Finance begins work on House tax bills

The Senate Finance Committee acted on several House measures this morning. The committee:

- Voted not to report **HB 2635** (Cline), which would have authorized local governments to publish information relating to warrants paid by the local-

ity. The warrant information that could be published would have included the names of payees, amounts paid, the serial numbers of warrants, and dates of payments. The committee defeated two Senate bills identical to HB 2635 earlier in the session.

- Amended [HB 2289](#) (Cline) to conform to [SB 896](#) (McDougle) and then reported the measure, which requires that upon the written request of the local commissioner of the revenue, every property owners' association, condominium unit owners' association, and proprietary lessees' association provide the commissioner with a list of the owners of property it manages, to the extent it maintains such a list.

- Amended [HB 2135](#) (J. Miller) to conform to [SB 1157](#) (Saslaw) and then reported the measure, which deals with changing the basis on which recordation and grantor taxes are calculated. The amended Senate version increases the penalty for knowingly misrepresenting information on the deed. The Senate version also supports a study by the Department of Taxation to determine the fiscal impacts on the real estate industry and local governments.

Staff contact: Neal Menkes (nmenkes@vml.org)

Transportation

Bill allow cities, towns to use more new construction money for debt service

[SB 1438](#) (Y. Miller) and [HB 1645](#) (D. Marshall) would provide that not more than two-thirds (instead of the present one-third) of the annual urban system highway funds apportioned to a city or town may be used to reimburse the locality for debt service for bonds or eligible project costs incurred on approved projects included in the Six-Year Improvement Program and the city's or town's capital improvement program.

[SB 1438](#) passed the Senate 36-4 on Jan. 28. [HB 1645](#) was unanimously approved by the House on Feb. 6. It was referred to the Senate Transportation Committee on Feb. 9.

Staff contact: Neal Menkes (nmenkes@vml.org)

Miscellaneous

Governor pushes for changes in investment partnership

Under the Virginia Investment Partnership Act, special grants are paid to eligible companies over a five-year period, beginning in the third year after the company demonstrates investment and employment creation performance as stipulated in a performance agreement. [SB 1548](#) (Colgan) and [HB 2673](#) (Putney and Purkey) would amend the definition of "eligible company" by adding that a company may create or cause to be created 300 jobs with average salaries at least 100 percent greater than the Prevailing Average Wage to be eligible for performance grants under the Virginia Investment Partnership Act. Currently, a company would have to create or cause to be created 400 jobs with average salaries at least 50 percent greater than the Prevailing Average Wage. The bill also has an emergency clause. [SB 1548](#) unanimously passed the Senate on Feb. 9. The House engrossed [HB 2673](#) on Feb. 9. The bill is awaiting final passage.

Staff contact: Neal Menkes (nmenkes@vml.org)

Changes proposed for special elections, filling of vacancies

[HB 1780](#) (Athey) amends the statutes regarding appointments to fill vacancies in local governing bodies, constitutional offices and school boards, and specifies when special elections have to be held. The bill allows local governing bodies within 45 days to either appoint a person to fill a vacancy or to petition for a special election. The bill requires that a person appointed to fill a vacancy can only serve until a special election is held at the *next* election in November or May. The bill overrides local charters that allow appointees to serve for a longer time period. It also removes the current exemption for towns with populations of 3,500 or less, under which people appointed to fill vacant terms were able to serve out the entire term. Vacancies in municipalities with May elections would have to fill those vacancies in November (should that election occur before the May election). The Attorney General opined in December that individuals appointed to serve unexpired term are not elected members of council as that term is used in Title 15.

Staff contact: Mary Jo Fields (mfields@vml.org)

VML staff & assignments

R. Michael Amyx

mamyx@vml.org
387-9692 (c); 523-8521 (o)
Executive Director

Mary Jo Fields

mfields@vml.org
400-0555 (c); 523-8524 (o)
Directs lobbying staff. Education, elections, retirement and rules.

Janet Areson

jareson@vml.org
400-0556 (c); 523-8522 (o)
Health and human services, state budget.

Mark Flynn

mflynn@vml.org
400-1321 (c); 523-8525 (o)
Legal, housing, blight, land use, zoning, telecommunications and technology.

Tim Ailsworth

tailsworth@vmlins.org
310-3097 (c); 273-0038 (o)
Insurance, workers' compensation.

Neal Menkes

nmenkes@vml.org
400-1191 (c); 523-8523 (o)
Taxation and finance, state budget, transportation funding, community and economic development.

Kimberly Pollard

kpollard@vml.org
400-1987 (c); 523-8528 (o)
Public safety, general laws.

Joe Lerch

jlerch@vml.org
640-5615 (c); 523-8530 (o)
Environment, natural resources and transportation.

Consultants

Randy Cook

McCaul, Martin, Evans & Cook
wrcook@mmeccpc.com
746-3773 (o)
Courts, criminal law, civil law, eminent domain, FOIA, procurement, general laws.

Marianne Radcliff

Kemper Consulting Inc.
mradcliff@kemperconsult.com
649-7945 (o)
Transportation.

At your fingertips ...

[Find a bill \(state LIS\) >](#)

A link to the state's Legislative Information System, is the fastest, easiest way to check on the status of a bill.

[State budget details >](#)

A link to the state's Legislative Information System, is the fastest, easiest way to check on the status of a bill.

[House Membership >](#)

Link to General Assembly Web site listing all members of the House of Delegates and their contact information.

[House Committees and Subcommittees >](#)

Link to General Assembly Web site listing membership of all House committees and their contact information.

[Senate Membership >](#)

Link to General Assembly Web site listing all members of the Senate and their contact information.

[Senate Committees and Subcommittees >](#)

Link to General Assembly Web site listing membership of all Senate committees and their contact information.

[House of Delegates Live Audio Stream >](#)

Link to live audio stream of House of Delegates floor sessions.

[House of Delegates Live Video Stream >](#)

Link to live video stream of House of Delegates floor sessions.

[Senate Live Audio Stream >](#)

Link to live audio stream of Senate floor sessions.

[Senate Live Video Stream >](#)

Link to live audio stream of Senate floor sessions.

[Legislative Meeting Schedule >](#)

Up-to-date listing of legislative committee meetings.



P.O. Box 12164, Richmond, VA 23241

(804) 649-8471

Fax: (804) 343-3758

E-mail: e-mail@vml.org

www.vml.org

LOCAL GOVERNMENTS WORKING TOGETHER SINCE 1905