



VMI

January 15, 2009

# Legislative Bulletin

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

## Find it fast

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## Upcoming

VML-VACo Legislative Day is fast approaching. Your attendance is crucial this year. The annual event will be held on Thursday, Feb. 5, at the Richmond Marriott, located at 500 E. Broad St. in downtown. Please mark your calendar now. [Registration and information](#) >.

## Stalled state economy reflected in continuing revenue drop-off

IN A **BRIEFING** before the House Appropriations Committee, Secretary of Finance Ric Brown unloaded a batch of bad news – payroll employment growth has dropped from 0.5 percent to 0.1 percent; the unemployment rate rose from 4.2 percent to 4.6 percent in November; and the Virginia Leading Index, which measures auto registrations, building permits and initial unemployment claims, fell 0.6 percent in November for the seventh decline in the last 12 months.

But despite the bad economics, actual tax collections fell only by 3.5 percent through the first six months of FY09 instead of the projected 4.8 percent decline. Individual income tax withholding, which accounts for 62 percent of general fund revenues, surged ahead of the projected annual growth rate of 3.4 percent to 5.9 percent in year-to-date collections. Also, non-withholding of individual income taxes only fell 0.7 percent through December rather than the projected annual estimate of an 8.4 percent decline. Non-withholding comprises 17 percent of general fund revenues.

Sales tax collections have taken a beating, falling 5.4 percent thus far through the fiscal year. The sales tax accounts for 20 percent of the general fund, and the official revenue forecast calls for a 2.1 percent decline.

*Continues on next page*

### Inside ...

- Localities take aim at firearms in buildings
- House bills target local revenue streams
- Redistribution of sales tax for K-12 proposed

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

## Dialogue

*“I’m not sure they’ve gone far enough.”*

... Del. Johnny Joannou of Portsmouth, speaking at the Jan. 14 meeting of the House Appropriations Committee about Gov. Tim Kaine’s proposal to cut state funding for 13,000 support positions in public schools.

## Cover story continued ...

Corporate income tax collections dropped 27.8 percent in December and 21 percent on a year-to-date basis. This trails the official projection of a 15.2 percent decline. Unsurprisingly, recordation taxes continue to decline with the collapse in housing – falling 28.6 percent on a year-to-date basis.

### Governor addresses General Assembly

Gov. Tim Kaine delivered his State of the Commonwealth address to the General Assembly on Wednesday evening.

[Text of speech >](#)

Historically, about 53 percent of the total general fund is collected in the last six months of the fiscal year. The administration will be closely watching the affects of rising unemployment and slowing economic activity on general fund revenue collections.

Secretary Brown also reported on transportation revenues. On a year-to-date basis, the Highway Maintenance and Operating Fund and Transportation Trust Fund are 3.6 percent below last year's revenue collections. The official revenue forecast calls for a 2 percent growth.

Federal grants, tolls, and receipts from cities and counties have dropped 15.2 percent through the year. The forecast calls for a 12.2 percent increase from these sources. Because of declining motor fuel collections, vehicle sales, vehicle registrations, and other factors, the road maintenance budget includes a \$385 million transfer from the new road construction budget. Since July 2008, \$345 million has been transferred from new construction for maintenance. And, six months still remain in the fiscal year.

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

## Education

### House bill would change distribution of sales tax for education

The state sales tax revenue dedicated to public education would be distributed by average daily membership instead of school-age population under [HB 2063](#) (Hamilton). The bill is awaiting committee referral but is likely to go to [House Appropriations](#). The bill also eliminates the requirement that school divisions

undertake the triennial school census. Changing the method of distribution would create “winners and losers” as school divisions with a relatively higher proportion of school age children who are either home schooled or in private schools would receive less in sales tax revenue from the state. VML is analyzing the effects of this legislation and will provide that information as soon as it is available.

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

## Eminent Domain

### More eminent domain constitutional amendments introduced

To date, three constitutional amendments have been introduced that place restrictions on the exercise of eminent domain authority. Local governments and a multitude of other interested constituencies opposed similar proposals in the 2007 and 2008 sessions. In 2007, the General Assembly enacted a comprehensive rewrite of the law of eminent domain by redefining the term “public use” in the Code of Virginia. It would be premature to amend the Constitution of Virginia until the courts and various interested parties have been able to determine the impact of the recent statutory changes.

Amendments introduced to date include [HJR 728](#) (Joannou) and [HJR 725](#) (Bell). Neither resolution has been referred to committee yet, but they will likely be referred to [House Privileges and Elections](#). They are likely to be referred to the constitutional amendments [subcommittee](#), which meets Wednesday at 5 p.m. In the Senate, [SJR 290](#) (Obenshain), has been referred to [Senate Privileges and Elections](#). The constitutional amendments [subcommittee](#) meets Tuesdays at 9:15 a.m.

Please contact your members on the House and Senate committees to voice opposition to a constitutional amendment on eminent domain.

Staff contact: [Randy Cook](#), (804) 241-5051

## Land Use

### Blight-fighting measure gains momentum; Senate bill introduced

[HB 1671](#) (Dance), which is VML's collaborative effort with the Virginia Association of Realtors and others to develop new tools for local governments to fight blight, is gaining momentum. A companion Senate bill has been introduced: [SB 1094](#) (Locke). Sen. Mamie Locke, that bill's patron, chairs the Virginia Housing Commission, which endorsed the bill in December. Another commission member, Del. Danny Marshall, will co-patron [HB 1671](#). This is significant for several reasons. Marshall is chair of the Counties, Cities and Towns [subcommittee](#) that will review the bill first. In addition, Marshall and Dance, as former local government elected officials, understand the concerns cities and towns have in this area.

The major features of the bill increase a locality's ability to obtain a court order authorizing the demolition of a house. It defines a building as blighted and derelict if it is vacant, boarded up and has no utilities for 6 months.

Along the same lines, when a locality identifies a building that meets those conditions, it may notify the owner that he or she is required to submit a plan to demolish or renovate it. The owner must submit a plan of renovation or demolition. The plan is subject to government review and approval. If the owner carries out a plan to renovate or clear the lot, he or she receives a tax credit for up to 15 years. If the owner fails to carry out the plan, the locality may continue to use its existing tools to deal with the blighted property, including use of the spot blight law.

In addition to the major amendments to the law, the legislation simplifies the spot blight law and makes it easier for a locality to sell property that has liens on it.

At VML's request, Locke has introduced a bill to exempt the name, address and telephone number of a person making a complaint about his or her neighbor for a building code or fire prevention code violation. The bill has not been assigned a number. Sen. John Edwards has introduced similar legislation at Roanoke's request: [SB 1014](#), which has been referred to the [Senate General Laws and Technology Committee](#).

Staff contact: Mark Flynn ([mflynn@vml.org](mailto:mflynn@vml.org))

## Other bills ...

### Vested rights; defines 'act of God' to include hurricanes and fires not set by owner - [HB 1680](#) (Orrock)

**Summary:** Defines the term "act of God" to include a hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, or fire. Specifies that a fire caused by an individual other than the property owner shall not adversely affect the rights vested in the affected property. Limits the owner's right to repair, rebuild, or replace the building to its original nonconforming condition only if such building is damaged greater than 50 percent. Additionally, the proposed amendment provides that a zoning ordinance may allow for a building or structure covered by this section to be brought in compliance with the Uniform Statewide Building Code in effect at the time of the construction of such building or structure.

**Action:** Referred to [Counties, Cities and Towns Committee](#)

## Local Authority

### Other bills ...

#### Alternatives to publication of notices for charter changes, other actions in cities over 100,000 population - [HB 1879](#) (Cosgrove)

**Summary:** Gives localities with a population of more than 100,000 alternatives to publication in newspaper of general circulation in the locality. These alternatives include publication in a newspaper of general circulation in the locality, on the locality's Web site, or on any public access channel operated by the locality, to be aired during prime time programming and at least two other times during the day. Any electronic publication shall be aired daily for two consecutive weeks.

**Action:** Referred to [Counties, Cities and Towns Committee](#)

#### Virginia Indoor Clean Air Act; restaurants - [SB 1002](#) (Quayle)

**Summary:** Allows localities to adopt ordinances containing standards or provisions relating to smoking in restaurants that meet or exceed those established in the Virginia Indoor clean Air Act.

**Action:** Referred to [Senate Local Government Committee](#)

### **Smoke Free Air Act; smoking in public places - HB 1704 (A. Howell)**

**Summary:** Moves the law restricting smoking in buildings and other enclosed areas from the title relating to local government (Title 15.2) to the title relating to health (Title 32.1) and prohibits smoking indoors in most buildings or enclosed areas frequented by the public.

**Action:** The bill has not yet been referred to a committee.

## **Personnel**

### **Line of Duty investigative costs addressed**

Last year the State Police announced that it would begin charging local governments for costs relating to investigations of claims for coverage of local employees under the Line of Duty Act. [HB 1915](#) (Crockett-Stark) reverses this by exempting police departments and sheriffs' offices from the requirement to reimburse these costs. The bill is in [House Appropriations](#).

The Line of Duty Act is a state benefit that the state chose to offer. The state elected to extend benefits to local employees; therefore, it is entirely logical that the state should bear the costs of the program. Please let your member of [House Appropriations](#) know of your support for HB 1915.

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

### **Continued health insurance coverage proposed**

Local governments and other entities employing a disabled employee covered under the Line of Duty Act would be prohibited from ending membership in any health care plan in place for the employee (or the qualified beneficiary of a deceased employee) under [HB 1960](#) (Mathieson). The bill also prohibits employers from refusing to re-enroll or otherwise continue health care coverage for the disabled employee (or beneficiary) if the state comptroller states that the employee has met the requirements for continuing health care coverage under the Line of Duty Act. The bill is in [House Appropriations](#).

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

### **Retroactive coverage, fire alarm fee proposed for Line of Duty Act**

[HB 1997](#) (Bulova) and [SB 1006](#) (Quayle) extend retroactive eligibility for local employees for Line of Duty Act benefits back to Jan. 1, 1966. Both bills also require alarm company operators to pay a \$1 fee for each alarm system monitored, and an additional \$5 process and service fee, with the proceeds to provide funding for Line of Duty benefits. [HB 1997](#) probably will be heard in [House Appropriations](#); [SB 1006](#) has been referred to [Senate Finance](#). Public safety employee groups have been trying for several years to get retroactive eligibility standards for benefits under the Line of Duty Act, as well as creating a funding stream that would prefund the trust that has been established to pay for this state benefit.

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

## **Public Safety**

### **Local authority over firearms in public buildings proposed**

Three bills have been introduced that would allow local governments to prohibit firearms in public buildings. [HB 1910](#) (BaCote) would allow a locality, by ordinance, to prohibit firearms, ammunition, or components in libraries owned or operated by the locality. The bill was sent to the [House Militia, Police and Public Safety Committee](#), which has been a graveyard for similar legislation in the past. A companion bill, [SB 832](#) (Locke) is in [Senate Local Government](#). [SB 1053](#) (Whipple) would allow any locality, by ordinance, to make it unlawful for any person to possess a dangerous weapon upon the property (including buildings and grounds) of any facility that is owned or leased by that locality and used for governmental purposes. The bill is in [Senate Local Government](#).

VML's legislative program supports legislation to allow local governments to prohibit or restrict the carrying of dangerous weapons in city and town halls, county administration buildings, public libraries, public community and recreation centers and public convention/conference centers. Please contact your members on the House and Senate committees in support of these bills.

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

## Taxes/Revenues

### House bills would restrict or eliminate certain local revenues

**HB 2205** (Frederick) would repeal local business license taxes effective July 1, 2009. In FY07, cities collected \$279.3 million and towns collected \$25.7 million from business license taxes. From a statewide perspective, this revenue source makes up roughly 6.8 percent of the local revenue collected by cities and 12.2 percent of the local revenue collected by large towns.

**HB 2084** (Purkey) would exempt certified pollution control equipment and facilities from state and local taxation pursuant to Article X, Section 6 (d) of the Virginia Constitution. Under § 58.1-3660 of the state code, the decision to grant an exemption from real and personal property taxes currently rests with the county, city or town. It is a matter of local option.

Most cities and counties have chosen to exempt such equipment from taxation. However, the Cities of Alexandria, Falls Church, Hampton, and Charlottesville and the Counties of Albemarle, Fairfax, Hanover, King and Queen, and Loudoun do impose property taxes on this equipment. The patron, Del. Harry Purkey, unsuccessfully sponsored similar legislation (**HB 124**) in the 2008 Session.

**HB 1730** (Cole) would place a “sunset” provision on any new state or local tax bill or any increase to an existing state or local tax. Every new tax or tax increase would have to contain an expiration date of not longer than four years from the effective date of the tax levy. The bill prohibits any committee of the General Assembly of reporting new tax or tax increase legislation without the sunset provision. The bill has been referred to House Finance.

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

### House bill would help pay for local infrastructure

**HB 1669** (Albo and Rust) would require the state to return to each county and city 50 percent of the growth in the individual income tax collected from its residents. The revenue sharing scheme would not occur in those years in which withdrawals are made from the Revenue Stabilization Fund (“Rainy Day”

Fund) or income tax collections fall from one year to the next. The revenues transferred to counties and cities would have to be used for: (1) new road construction or new public transit construction, (2) public transit operating costs, or (3) new school construction or renovation of existing schools. The bill was referred to House Appropriations.

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

### Broad local authority over property tax relief proposed

Councils and boards of supervisors would have authority to set any income any/or financial worth limitations for property tax relief programs under **HJR 688** (Cole). The constitutional amendment will be heard in the **House Privileges & Elections Committee**. The amendment deletes current language in the **Virginia Constitution**, Article X, Section 6 (7b) that gives the General Assembly the authority to determine who bears “an extraordinary tax burden” on “property in relation to their income and financial worth.”

Please forward comments on this constitutional amendment to Mary Jo Fields ([mfields@vml.org](mailto:mfields@vml.org)) or Neal Menkes ([nmenkes@vml.org](mailto:nmenkes@vml.org)).

### Constitutional amendments would limit local tax assessments, spending

Several constitutional amendments have been introduced to limit tax assessments, tax rates or government spending. **HJR 709** (Frederick) limits increases in assessments to 1 percent plus the percentage increase in inflation. The amendment also limits increases in real estate tax rates to one percent a year. **HJR 710** (Frederick) limits state and local government spending by requiring that surplus revenues be returned to taxpayers. **HJR 724** (Gilbert) also limits the growth in state spending, with surplus funds divided between the Revenue Stabilization Fund and taxpayer rebates. House constitutional amendments typically are assigned to the **House Privileges and Elections Committee**.

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

## Homestead exemption constitutional amendment introduced ... again

The homestead constitutional amendment is back. [HJR 686](#) (Brink) authorizes the General Assembly to enact legislation to allow localities by ordinance to exempt from property taxes up to 20 percent of the value of each residential or farm property that is the individual owner-occupants' primary dwelling and is lived in continuously. The resolution is in the [House Privileges and Elections Committee](#).

Constitutional amendments have to be enacted by two sessions of the General Assembly separated by a general election. Any amendment this year would have to be approved by the 2010 session before being placed on the ballot in the November 2010 election.

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

### Other bills ...

**Merchants' capital tax. deems rented merchants' capital under contracts giving both the lessor and the lessee the right to terminate at any time to be daily rental property – [HB 2472](#) (Hugo)**

**Summary:** Under current law, people engaged in the short-term rental business cannot be taxed in an amount that exceeds one percent of the gross proceeds from daily rental property.

**Action:** Not yet referred to committee.

**Treasurers; mailing of certain bills at least 30 days prior to due date instead of 14 days – [HB 1766](#) (Dance)**

**Summary:** Requires treasurers to mail certain tax bills at least 30 days prior to the due date instead of 14 days.

**Action:** Referred to [House Finance](#).

**Warrants, local; authorizes local governments to publish certain information relating to issuance – [SB 812](#) (Cuccinelli)**

**Summary:** Authorizes local governments to publish information relating to warrants paid by the locality. The warrant information that could be published would be the names of payees, amounts paid, the serial numbers of warrants, and dates of payments. Information on warrants relating to tax refunds could be published only if the information was aggregated

or classified so as to prevent the identification of the payee of the tax refund.

**Action:** Referred to [Senate Finance](#).

**Duty to file lists of renters, etc.; provide name & address thereof to commissioner of revenue – [SB 896](#) (McDougle)**

**Summary:** Adds the owners and operators of self-service storage facilities to the list of entities that are required to provide the name and address of renters or lessees to the local commissioner of revenue upon his request. The bill also would require property owners' associations, condominium unit owners' associations, and proprietary lessees' associations to provide a list of owners of the properties administered by such associations to the extent that such list is maintained to the commissioner upon his request.

**Action:** Referred to [Senate Finance](#).

### Miscellaneous

#### Other bills....

**Governor; suspension of mandates - [HB 2354](#) (Landes).**

**Summary:** Requires the governor to temporarily suspend mandates on a locality upon a finding that it faces fiscal stress and the suspension of the mandate or portion thereof would help alleviate the fiscal hardship. Currently, suspension of the mandate is discretionary with the governor. The bill provides that its provisions will expire on July 1, 2010.

**Action:** Committee referral pending

**Elections; acquisition of voting equipment by localities - [HB 2422](#) (May)**

**Summary:** Deletes the provision enacted in 2007 that prohibits the acquisition of direct recording electronic (DRE) machines by any locality on and after July 1, 2007.

**Action:** Committee referral pending (but referral to [House Privileges & Elections](#) is likely)

### More ...

See next page for a listing of VML legislative staff, contact information and responsibilities.

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