



VMIL

January 20, 2009

Legislative Bulletin

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

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Upcoming

[HB 1735](#) (Valentine), granting statewide authority for the creation of arts and cultural districts by localities, is scheduled to be heard in the House Counties, Cities and Towns Sub-Committee 1 on Wednesday, Jan. 21, at 7:30 a.m in House Room D of the General Assembly Building.

New road project money will evaporate by FY10

Transportation secretary outlines scaled-back VDOT

SECRETARY of Transportation Pierce Homer told a Senate subcommittee Tuesday morning that impending cuts to the state's Six Year Improvement Program are directly attributable to the sharp and sudden drop-off in transportation revenue.

The drop in revenues is projected at \$2.6 billion over the next six years. The Commonwealth Transportation Board is expected to approve a revised program taking planned spending down from the \$10 billion approved this past June to less than \$8 billion for fiscal years 2009-2014.

The secretary told the Senate Finance Subcommittee on Transportation that beginning in FY10, there will not be any state or federal funds allocated through the state primary, secondary and urban construction formulas. Just six years ago the Commonwealth Transportation Board approved \$4 billion for primary, secondary and urban roads.

VDOT maintenance services will also be scaled back, affecting rest areas, safety service patrols, 511 phone service, roadway lighting, mowing, litter

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Inside ...

- Governor squeezes 599 funding
- Tax relief for veterans measure moves forward
- Bills could cut cost of legal advertising

Legislative links ➤ [Find a bill \(state LIS\)](#)
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Dialogue

"The fix here is not to turn the neighborhood into vigilantes."

... Alice Harrington of the Virginia Federation of Dog Clubs and Breeders speaking to a Senate committee about SB 950 (Howell), which would have allowed people to apply to a magistrate for issuance of a summons to the owner of a dangerous dog. The bill was defeated.

Cover story continued ...

pick-up, and ferry service. VDOT itself will shrink – reducing full-time staff from 8,400 to 7,500, reducing residency offices from 44 to 29, reducing central office divisions from 31 to 22, and reducing equipment repair shops from 73 to 35. (In 2002, VDOT had 10,500 employees.) It is not only maintenance workers but also engineering staff who will lose jobs as the agency adjusts to a much smaller construction program.

Homer said the administration's preference would be to focus any federal stimulus transportation money on transit capital replacement and pavement repair and bridge replacement. He pointed out that the stimulus package now under congressional review is a temporary salve (perhaps three years), and will not provide long-term transportation funding for Virginia. The secretary cautioned the subcommittee that if the stimulus package requires a non-federal match, then Virginia would be hard-pressed to match the funds.

The secretary also spoke about public-private partnerships, stating that the Commonwealth had some \$9 billion of PPP projects in place. But, he warned that public-private partnerships are not a panacea for transportation finance because of the critical dependence on private credit markets. He pointed to the proposals for building a new Route 460 and the Downtown/Midtown Tunnels in Portsmouth and Norfolk as susceptible to the credit market crisis.

Sen. Richard Saslaw chairs the [subcommittee](#). For the most part, the subcommittee members were subdued as the transportation secretary delivered the bad news. They appreciated the efforts made by the administration to protect public transit from the worst of the reductions and to promote a three-year pilot program increasing passenger train service along the I-95 and Route 29 corridors. The subcommittee has only two meetings left before the full committee reports its budget recommendations on Sunday, Feb. 8.

Homer's [presentation](#) to the Senate Finance Subcommittee on Transportation.

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

Budget briefing handouts available on-line at vml.org

Handouts from the state's budget briefing for local government officials held Jan. 16 are available on the [VML Website](#) at "What's New."

Budget

Governor squeezes state aid for police departments (599)

When the General Assembly wrapped up the budget last April state aid to localities with police departments received a \$205 million appropriation for each year.

As revenue collections began sinking in August, the governor ordered state agencies to prepare spending reduction plans. In October, Gov. Tim Kaine reduced spending for "599" in this fiscal year by 3.8 percent or \$7.7 million to reflect the downward projection of revenues. This action was consistent with state statutes governing the program's funding.

For FY10, the governor recommended an additional 7 percent across-the-board cut, lowering the state appropriation to \$190.7 million. The reduction was not based on state statutes. Instead, the 7 percent was the amount the governor decided to reduce state aid for the Commonwealth Attorneys and Sheriffs departments. It is important to note that neither the Commonwealth Attorneys nor the Sheriffs were subject to the October reductions.

In other words, the governor changed the rules. In FY09 the reduction was based on state statutes. In FY10 the reduction is based on a policy decision. If the governor had applied the same set of decision rules in 2010, the program's appropriation would have been increased by 4 percent to reflect the administration's revenue projections for next year.

VML asks its members receiving state aid for local police departments to answer these questions for us. How much is your FY09 allocation under the '599' program? What is the average cost of salary and benefits for a police officer in your community? We will use the information to educate General Assembly members.

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

Senate Finance Committee briefed on proposed budget amendments

Senate Finance Committee staff provided an [overview](#) of Gov. Tim Kaine's budget package to committee members on Monday. The 75-page document broke out the \$3.2 billion budget shortfall, most of which is driven by a \$2.9 billion drop in revenues and \$310.5 million in new spending.

Proposed tax policy changes affecting the general

fund include a series of actions totaling \$137.8 million:

- \$64.3 million for eliminating the sales tax dealer discount. Under current law, merchants with monthly sales of less than \$62,500 receive a 4 percent discount for administrative costs; for sales between \$62,501 and \$208,000 the discount is 3 percent, and for monthly sales greater than \$208,000 the discount is 2 percent.

- \$50 million for delaying one-half of the Land Preservation tax credit that taxpayers can claim against Tax Year 2010 liability.

- \$10 million for eliminating the corporate Real Estate Investment Trust (REIT) tax loophole for non-financial institutions.

- \$7.7 million for advancing the federal fixed date conformity to December 31, 2008.

- \$6 million for retaining two-thirds of Circuit Court Clerks' "excess fees" rather than the statutorily set one-third.

- \$2 million for increasing the cigarette tax. Under state law, the general fund sales and use tax is applied on top of the non-general fund excise cigarette tax. The cigarette tax bill would raise \$154.9 million of non-general fund dollars to be used to offset the state's share of the Medicaid program.

- (\$2.2 million) for proposing new energy tax credits and energy sales tax exemptions.

All of these tax policy changes require the General Assembly's approval. Gov. Tim Kaine has introduced separate pieces of legislation to accomplish this, and has also incorporated the changes in the [Budget Bill](#) (SB 850 and HB 1600).

The administration's tax bills are listed below:

- [SB 947](#) (Howell) and [HB 2389](#) (Brink). These bills increase the state cigarette tax from 1.5 cents per cigarette to 3 cents per cigarette, adds a 25 cents-per-ounce tax on each can or package of moist snuff, and eliminates the stamping agent discount and the dealer discount. SB 947 was referred to Senate Finance. HB 2389 has not yet been referred.

- [HB 1737](#) (Purkey) and [SB 985](#) (Colgan). These bills conform Virginia's income tax with the Internal Revenue Code as it has been done each year for many years. Both bills have been referred. The House Finance Committee reported HB 1737 on January 19, and SB 985 has been referred to Senate Finance.

- [SB 1147](#) (Whipple) and [HB 2504](#) (Amundson). These bills include certain dividend income in calculating the Virginia taxable income of "Captive Real

Estate Investment Trusts (REITs)" to be certain their income is taxed in the same manner as any other corporation's shareholders/owners. Both bills have been referred to committees. SB 1147 is before Senate Finance, and HB 2504 is in House Finance.

- [SB 986](#) (Colgan) and [HB 1891](#) (Brink). These bills reduce from \$100,000 to \$50,000 the amount of the land preservation tax credit that may be claimed for each of taxable years 2009 and 2010. Any taxpayer affected by the credit reduction would be allowed an additional two taxable years in which to claim the land preservation tax credit. Both bills have been referred. SB 986 was referred to Senate Finance, and HB 1891 was referred to House Finance.

- [SB 987](#) (Colgan) and [HB 2383](#) (J. Scott). These bills eliminate dealer tax and fee discounts and allowances for the retail sales and use tax, tire recycling fee, communications sales and use tax, cigarette and tobacco products tax, E-911 service tax, and fuels taxes. Both bills have been referred. SB 987 is in Senate Finance. HB 2383 was sent to House Finance.

- [SB 1216](#) (Deeds). This bill exempts from the retail sales and use tax solar photovoltaic systems, solar thermal systems, and wind-powered electrical generators purchased for installation in or on residential real property. The bill was referred to Senate Finance.

- [SB 1141](#) (Lucas) and [HB 2094](#) (Pollard). These bills provide a tax credit for individuals and corporations for renewable energy property placed in service for taxable years beginning on and after Jan. 1, 2009. Credits are approved on a first-come, first-served basis and cannot exceed \$1 million for individuals and \$1 million for corporations in any year. Renewable energy property means photovoltaic property, solar water heating property, and wind-powered electrical generator property. SB 1141 was referred to Senate Finance, and HB 2094 is before House Finance.

Human Services

Mental health 'clean-up' bill reported by House panel

The House Health, Welfare, and Institutions Committee has reported [HB 2060](#) (Hamilton), which clarifies and cleans up some of the issues resulting from the major mental health laws passed by the 2008 General Assembly.

The bill clarifies a number of items, including 1) requirements that law-enforcement-initiated emergency custody remains subject to the four hour limit and two hour extension provisions; 2) that the employee or designee of a community services board (CSB) attending a commitment hearing need not be the person who prepared the pre-screening report, and 3) that the prescreening report shall be admitted into evidence and made part of the record of the case. The bill has an emergency clause on it.

Land Use

Other bills...

Boards of zoning appeals; when actions may be taken - HB1637 (Cole)

Summary: Allows majority of those BZA members present to decide a matter, instead of majority of entire BZA.

Action: Referred to Committee on Counties, Cities and Towns.

Vested rights; defines term 'act of God' to include hurricane, tornado, etc - HB1680 (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 Committee on Counties, Cities and Towns.

Plats and site plans; increases from 5 to 10 years period of validity for certain - HB 2077 (Oder)

Summary: Increases from five to 10 years the period of validity for certain preliminary and recorded plats and final site plans.

Action: Referred to Committee on Counties, Cities and Towns.

Zoning appeals, boards of; changes standard by which variance can be granted - HB2326 (Athey)

Summary: Reduces degree of hardship applicant must demonstrate to be eligible for a variance.

Action: Referred to Committee on Counties, Cities and Towns.

Local Authority

Bills could save localities money on legal advertising

HB 2355 (Lohr) and HB 1879 (Lingamfelter) amend numerous provisions in Title 15.2 that require cities, towns and counties to run newspaper ads for upcoming actions. The bills are aimed at saving local governments significant amounts of money while providing meaningful public notice of actions a city, town or county might take. Both bills are in [House Counties, Cities & Towns](#).

The bills allow a locality to get the word out by newspaper ads; government Web site; direct email or phone calls to constituents; notice in the locality's TV public access channels. The bills require the locality to use at least two methods of publication. The result is that for a locality that has the equipment, costly newspaper ads are not required.

The main difference between the two bills is that the Lohr bill applies to all localities. Lingamfelter's bill applies only to those with populations exceeding 100,000.

The bills apply to a panoply of local actions in Title 15.2, including §903 regulation of automobile graveyards; §1416 setting regular meeting dates; §2204 land use actions; §2506 local budgets; §2600 public finance act; §3107 boundary line adjustments; §3400 voluntary settlement agreements; and §5104 water & sewer authorities.

The expected opposition to the bills is the struggling newspaper industry, which will fight to retain revenue from the expensive ads the current laws require. Staff contact: Mark Flynn (mflynn@vml.org).

Personnel

Other bills ...

Grievance procedure; permits grievant to have a witness present during all stages - **SB 925 (Deeds)**

Summary: Permits the grievant to have a witness present during all stages of the grievance procedure.

Action: Referred to Committee on Local Government.

Public Safety

Bill would require payment of attorney's fees in some gun cases

HB 1655 (Carrico) would require a locality to pay attorney's fees resulting from making certain actions prohibited with regard to firearm control. The bill was re-referred to [Militia and Police and Public Safety](#). The bill could be in subcommittee as soon as Thursday.

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

Other bills ...

Law Enforcement Procedural Guarantee Act - **HB 1673 (Poisson)**

Summary: Includes certain deputy sheriffs under the coverage of the Law-Enforcement Officers Procedural Guarantee Act.

Action: The bill has been rereferred to [Militia, Police and Public Safety](#) committee.

Prisoner keep; increases amount locality may charge inmate - **HB 1919 (Crockett-Stark)**

Summary: Increases from \$1 to \$25 the amount a locality may charge an inmate to defray the costs associated with the inmate's keep.

Action: The bill has been referred to [Militia, Police and Public Safety](#)

Guns in Schools - **HB 1822 (Johnson)**

Summary: Exempts concealed handgun permit holders from the prohibition against carrying handguns onto the property of a public, private, or religious elementary, middle, or high school.

Action: Re-referred to [Militia, Police and Public Safety](#)

Indoor Clean Air Act; localities to adopt ordinances containing standards, etc. relating to smoking - **SB1002 (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 Committee on Local Government. Scheduled for hearing 2p.m. Tuesday, Jan. 20, in Senate Room B of General Assembly Building.

Taxes/Revenues

Tax relief for veterans moves forward

The Senate Privileges & Elections Subcommittee on Constitutional Amendments recommended reporting a substitute version of **SJ 275** (Puller), a constitutional amendment that will exempt veterans who have a 100 percent permanent, service-related disability from real estate taxation. The amendment will be before the full [Senate P & E](#) Committee on Jan. 27. The fiscal effect of the amendment is unknown. The House Privileges & Elections Committee has similar legislation before it. Contact: Mary Jo Fields (mfields@vml.org)

Transportation

Defeated ...

The House Transportation Committee defeated **HB 1731** (Cole) that would have permitted the display of only one license plate on motor vehicles as opposed to the current requirement for the display of both front and rear license plates. The Virginia State Police Association opposed the bill.

Miscellaneous

Defeated ...

The House Privileges & Elections Subcommittee on Elections passed by **HB 1620** (Dance) and a variety of other bills Jan. 19 that eased the current requirements on early voting. The subcommittee (and full committee) has opposed similar measures in past sessions.

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