



VML

January 22, 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](#) >.

Subcommittee gives green light to VML-backed blight legislation

HB 1671 on Friday docket of full committee

LEGISLATION INITIATED by VML that would give local governments more authority to deal with blighted properties has cleared its first legislative hurdle.

A subcommittee of the House Counties, Cities and Towns Committee voted unanimously in favor of [HB 1671](#) (Dance) this morning. The bill will be before the full committee for a vote when it meets Friday at 8 a.m. in House Room D of the General Assembly Building adjacent the Capitol.

The bill establishes new tools for local governments to fight blight. It creates significant tax saving incentives for landowners to improve blighted properties; increases a locality's ability to obtain a court order to deal with the worst buildings in a neighborhood; simplifies the spot blight process and makes it easier for a locality to sell property that has liens on it; and encourages action on derelict buildings by shortening the time to force a tax sale of blighted property to one year (down from two years).

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Inside ...

- Effort to repeal BPOL rejected - for now
- Lynchburg manager defends local budgets
- Federal transportation stimulus bill explored

Legislative links

- [Find a bill \(state LIS\)](#)
- [State budget Web site](#)

Dialogue

"I sometimes wonder if we aren't making a trade-off between car tax relief and K-12 education."

... Lynchburg City Manager Kimball Payne, speaking Tuesday at a Senate Finance Education Subcommittee meeting on state education budget cuts. See story page 2.

Cover story continued ...

If your locality believes the tools the bill creates or improves will be helpful, please call your delegate on the [House Counties, Cities and Town Committee](#) to voice your support.

[SB 1094](#) (Locke) – the companion Senate bill – is likely to be heard by the [Senate Committee on Local Government](#) when it meets Tuesday afternoon in Senate Room B of the General Assembly Building. Please call your senator on that committee to support the Senate bill, too.

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

Budget

Lynchburg manager makes case for local governments before Senate subcommittee

Lynchburg City Manager Kimball Payne told members of the Senate Finance Education Subcommittee Tuesday that his city and other local governments across the state will be unable to make up proposed cuts to K-12 education.

Payne said the city has practiced prudent fiscal management and, despite being one of the most fiscally stressed localities in the state, was accomplishing some of its goals. The recent and newly-proposed cuts in state funding for mandated, locally delivered services are making it difficult for the city to weather the recession. Localities are responsible for paying for services, and cut backs in state funding are forcing those costs onto the real estate property tax.

Payne pointed out that schools cannot attain the achievement goals of the Standards of Learning and “No Child Left Behind” with just state Standards of Quality funding and the required local match. Lynchburg provides 105 percent above the required local match, which translates to an additional \$17.3 million beyond the required \$16.5 million match. He said that the city’s capacity to do any more is exhausted.

Payne was asked his opinion on whether education cuts should be long-term, systemic ones, or temporary ones. Payne said that there needs to be some hope that when conditions warrant, state support would return.

Other panelists spoke to the effect of proposed budget amendments to cap the number of education support positions funded by the state. The budget

amendment will result in the loss of state funding for some 13,000 positions in school divisions across the state. The panelists agreed that cuts of this magnitude would inevitably have an effect on classroom instruction.

Virginia PTA Member Kathy Burcher said that “seeking a long-term permanent solution to a short-term problem certainly does not make sense.” She said the state’s ranking in the bottom quarter of state support for public education “is not a situation that makes our people happy.” Burcher said the PTA is working with its members to help parents understand that cuts in support positions will have an effect on the classroom.

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

Assortment of budget amendments abound

Despite, or maybe because of the bad economy, a number of budget amendments have been submitted to the House Appropriations and Senate Finance committees.

Budget amendments fall primarily into two categories: requests for funding and requests for new or changed language in the budget.

The requests for funding this year are primarily to restore funding that was cut in Gov. Tim Kaine’s introduced budget. Kaine has some budget amendments proposed as well. These mostly adjust funding levels from the proposed budget.

The House and Senate budget-writing committees will review these amendments and create their own recommendations for the budget. Each committee is scheduled to release its budget recommendations on Feb. 8.

The amendments may be viewed by patron, by agency or secretariat, or by item number. [Listing of budget amendments.](#)

Environment

Kaine seeks more energy efficient public buildings

In response to a recommendation from the Governor's Commission on Climate Change, the Kaine administration has introduced the Green Public Buildings Act, [HB 2387](#) (Ebbin) and [SB 1252](#) (Petersen) in order to promote savings in energy and water use. The act would require any public body (including local governments and schools) to design and build new buildings either to a [LEED](#) silver standard or [Green Globes](#) two globe standard. Exemptions from the standard shall only be allowed when LEED or Green Globes standards do not exist for the type of building being constructed or due to special circumstances that make construction to such standards impracticable.

[HB 2387](#) has been sent to [House General Laws](#) for consideration. [SB 1252](#) was passed by for the week on Jan. 21 in [Senate General Laws and Technology](#) in order to allow for consideration of an amendment supported by the James River Green Building Council that seeks to replace the proposed standards with numerical efficiencies for energy and water use savings.

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

Land Use

Other bills...

Boards of zoning appeals; when actions may be taken - [HB 1637](#) (Cole)

Summary: Allows local boards of zoning appeals to take action when a majority of those present and voting vote. Maintains the requirement that a quorum be present to initiate a hearing.

Action: On Friday docket of the [House Counties Cities & Towns Committee](#), which will meet at 8 a.m. in House Room D of the General Assembly Building.

Alternative on-site sewage systems; no locality shall prohibit use thereof - [HB 1788](#) (Hull)

Summary: Limits a locality's ability to regulate septic systems by restricting localities from prohibiting the use of alternative on-site sewage systems that have been approved for use by the Virginia Department of Health and prohibiting the locality from requiring maintenance of such systems beyond the manufacturer's recommendations or regulation of the

Department of Health.

Action: Assigned to [House Counties, Cities and Towns Sub-Committee 2](#). Put off a week to let patron work on problems with bill.

Vested rights; defines term 'act of God' to include hurricane, tornado, etc - [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: The [House Counties, Cities and Towns Sub-Committee 2](#) recommended removing one amendment that would have allowed a nonconforming building that is partially or totally destroyed to be built back to the building code in effect at the time of original construction. The result would have allowed unsafe construction in some cases, where older versions of the building code had defects in them. In addition, it would be impossible to find old versions of the code to use to build back to. The amendment that allows a nonconforming building to be replaced when it burns down is still a possible problem.

Local Authority

Multiple annexation extension bills in play

[HB 1697](#) (Lohr) is one of several bills extending the annexation moratorium. It was approved by a subcommittee of the [House Counties, Cities and Towns Committee](#) Wednesday with an amendment requested by VML to shorten the moratorium extension to 2018, down from its original 2020 date. VML testified to the subcommittee that the shorter time helps keep the larger issues of regional cooperation and the plight of center cities alive. The [full committee](#) is scheduled to take up the bill when it meets in

House Room D of the General Assembly Building at 8 a.m. on Friday.

Sen. Stephen D. Newman's [SB 1287](#) extends the moratorium to 2018. [SB 1469](#) (Quayle) extends the moratorium to 2020. The Senate bills may be heard Tuesday by the Senate Local Government Committee.

Personnel

Employee grievance bills raise many questions

A number of bills have been introduced that make changes to the current law governing employee grievance procedures. Please have your local attorney and human resources officer examine the bills to determine their effect on your locality, and relay any of your concerns to your delegation and VML.

[SB 887](#) (McEachin) provides that firefighters or emergency medical technicians may have a witness of their choice present during an interrogation. The bill was reported from Senate General Laws Committee 14-0.

[SB 925](#) (Deeds) permits the grievant to have a witness present during all stages of the grievance procedure. The bill is in [Senate Local Government](#).

[HB 1678](#) (Orrock) and [HB 1854](#) (Cole) gives localities the authority to use an administrative hearing officer in lieu of the required three-person panel when addressing grievance procedures. [HB 1678](#) was recommended for reporting from a House Counties, Cities and Towns Subcommittee #1 with amendments that undo the original assistance the bill provided local governments. With these amendments, the bill will not have a lot of effect. [HB 1854](#) is in [subcommittee #1](#) of House Counties, Cities and Towns.

[HB 1996](#) (Bulova) permits the grievant to have a witness present during the second and third steps of the grievance procedure. The bill further provides that all discussions or representations made during the first step of the grievance procedure be confidential. The bill is in [House Counties, Cities and Towns](#).

Staff Contact: Mark Flynn (mflynn@vml.org)

Moving along ...

The [House Counties, Cities and Towns Subcommittee 1](#) reported [HB 1678](#) (Orrock) with an amendment that undoes the bill. The amendment the subcommittee recommends allows the grievant to

demand a panel hearing instead of using a hearing officer.

Public Safety

Bill would extract attorney fees in firearms cases

[HB 1665](#) (Carrico) requires a court to award reasonable attorney fees, expenses, and court costs to any entity that prevails in successful action challenging a locality's authority to control firearms pursuant to § 15.2-915. The bill is in the [House Militia, Police and Public Safety Committee](#).

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

Bill gives localities option of adopting seat belt ordinance

[HB 2384](#) (J. Scott) allows the governing body of any county, city or town to enact a local safety belt ordinance not inconsistent with the state law on the subject. Presently, this ability is limited to the City of Lynchburg. The bill is in subcommittee #2 of House Militia, Police and Public Safety Committee.

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

Taxes/Revenues

Effort to repeal BPOL is rejected – for now

A House subcommittee voted to table a bill Wednesday that would have repealed the local business license tax (BPOL).

The 5-4 vote by the [House Finance Subcommittee #1](#) was a bit of a surprise. The bill -- [HB 2205](#) (Frederick) -- is in limbo for now. The full House Finance Committee could decide to take up the legislation at its meeting on Monday or the same subcommittee could reconsider its vote next Wednesday.

In FY07, the BPOL tax generated more than \$651.9 million for the counties, cities, and towns that imposed it. The BPOL tax is imposed in all 39 cities, 54 of the 95 counties and in many towns.

VML sent an e-mail alert to members before Wednesday's vote. At least one of the subcommittee members who voted to table the bill acknowledged the information and contact he received from his locality. VML reminds members that the House Finance

Committee will meet several times more before legislative “crossover” day. It is important to contact your delegates about the HB 2005’s effect on local finances.

These VML members have already done so:

Arlington, Culpeper, Gretna, Herndon, Pennington Gap, Roanoke City, Warrenton, Bristol, Winchester, Dayton, Harrisonburg, Fredericksburg, Marion, Martinsville, Mineral, Norton, Pulaski, Albermarle, Rocky Mount, South Hill, Stanley, Windsor and Wytheville.

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

Bills would shorten notice requirements for public hearings prior to increasing real property taxes

SB 1131 (Petersen), **SB 1003** (Quayle) and **HB 2308** (Melvin) would provide localities greater flexibility in dealing with notice requirements set by the General Assembly. SB 1131 would shorten the notice requirements for public hearings that localities must hold prior to increasing real property taxes from 30 days to 10 days. The bill has been referred to the Senate Finance Committee.

SB 1003 and HB 2308 are identical bills, and would trigger shorter notice requirements in the event that the General Assembly does not pass the general appropriation act by certain dates. In even-numbered years, the 30 days would be reduced to at least fourteen days when the General Assembly fails to pass a general appropriation act. If the General Assembly has not passed a general appropriation act by April 15, notice would have to be given at least seven days before the public hearing date.

Notice must be give at least fourteen days before the date of the public hearing in any odd-numbered year in which the General Assembly is organized, as of April 1 of such year, in a special session for the purpose of considering a general appropriation act. Or, the notification time is at least seven days if the General Assembly takes as long as April 15 to organize in special session to consider the budget.

SB 1003 is in [Senate Finance](#). HB 2308 was referred to [House Finance Subcommittee #2](#).

The General Assembly has been adopting earlier notification requirements for public hearings over the past few years. Efforts in the 2008 session to continue the legislative trend were defeated. These three bills may be an opportunity for localities to base the noti-

cation requirements on a more rationale basis. VML members should contact their delegations to support the measures.

Transportation

Federal transportation stimulus bill explored

Virginia stands to receive as much as \$800 million in federal funding from the proposed economic stimulus package being assembled in the U.S. House of Representatives, according to Virginia Transportation Commissioner David Ekern. Ekern addressed the House Appropriations Committee on the proposed bill on Wednesday.

The draft bill does not require a state-local match. It would funnel the money to the state using the existing allocation system used in the Surface Transportation Program (STP). As such, the 70.2 percent of the funding would come to Virginia to run through its allocations. Another 4.5 percent of the funding would go into the enhancement program, 14.3 percent would go to metropolitan planning organizations (MPOs), and 11 percent would go toward MPOs and rural areas.

Ekern said that the bill focuses on projects ready to go in 120 days (“shovel ready”). He said that VDOT would likely focus on promoting projects that could begin within 120 days, such as pavement maintenance projects, bridge repairs and replacements and other critical projects. He said that construction projects take an average of eight years, so they likely would not see this funding. He said that if states did not dedicate their funding within 120 days, they would likely lose it to other states.

Committee members repeatedly pushed Ekern to name specific projects that would be paid for with the federal money. He responded that the bill was still in draft form, and that when the bill was finalized, the state’s transportation board would determine the projects to be funded. He said that the state had a number of needs that could be filled with this funding. Bridge maintenance and replacement needs alone are approximately \$3.7 billion.

Miscellaneous

Electronic pollbooks pose cost issues for cities, counties

Cities and counties will be required to purchase hardware and software necessary to use electronic pollbooks as of July 2010 under [SB 1320](#) (Northam).

The electronic pollbooks will be furnished by the State Board of Elections, but localities will have to pay for the equipment that allow those pollbooks to be used.

The bill is in [Senate Privileges & Elections Committee](#), which meets Tuesdays at 4 p.m. Please check with your registrar to see if this mandate will impose additional costs for election administration. One locality estimates the capital costs to be \$1 million in FY10, as well as an additional \$40,000 annually in operating costs.

Please relay that information to the members of the Senate P&E committee, as well as to VML. Staff contact: Mary Jo Fields (mfields@vml.org)

Administration pushes legislation to 'fix' Enterprise Zone Program

At the request of the Kaine administration, Sen. John Watkins and Del. Bud Phillips introduced legislation – [SB 1165](#) and [HB 2332](#) – to address the problem concerning the pro-ration of [Enterprise Zone](#) incentives. The objective of the bills is to shrink the gap between the program's funding and eligible grant requests. For the past three years, the Department of Housing and Community Development has prorated incentives. Last year's grants were prorated at a rate of 60 cent per \$1.

Gov. Tim Kaine's budget amendments reduce funding for the Enterprise Zone Program by \$1.1 million in FY09 to \$14.3 million and by \$2.3 million in FY10 to \$13.2 million.

The administration says the legislation would result in pro-ration of roughly 91 cents per \$1 by:

- Increasing the minimum amount of investment required to be made in the rehabilitation or expansion of a building from \$50,000 to \$100,000 to become eligible for a real property investment grant
- Increasing from \$250,000 to \$500,000 the mini-

imum amount of investment required for new construction to qualify for an incentive grant

- Reducing the maximum amount of incentive grants for investments of \$5 million or less to \$100,000 within any five-year period. The current maximum is \$125,000.

- Reducing the maximum amount of incentive grants for investments greater than \$5 million to \$200,000 within any five-year period. The current maximum is \$250,000.

The administration points out that the minimum eligibility thresholds for real property investment grants have not been updated since 1995. Construction costs during this time have almost doubled. The administration hopes that effects of raising eligibility thresholds and reducing maximum benefits will provide a more predictable benefit to investors, particularly for the program's job creation grants.

The urgency to act is the result of two factors – an increasing demand and an ever-decreasing amount of resources. In 2005, the General Assembly implemented major reforms. The resources dedicated to the program was about \$20 million or almost \$7 million more than the amount included in the introduced budget bill.

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More ...

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

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

[House Committees and Subcommittees >](#)

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[Legislative Meeting Schedule >](#)

Up-to-date listing of legislative committee meetings.



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