

**VMI**

January 27, 2009

Legislative Bulletin

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

Find it fast

➤ *Indicates active link*

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Governor to speak at Legislative Day

Gov. Tim Kaine will speak at VML/VACo Legislative Day on Thursday, Feb. 5 in Richmond. The program will include a report on important bills before the General Assembly and an overview of the proposed \$825 billion federal economic stimulus package. More than 350 local officials already have registered. [Registration and information >](#).

Assembly targets revenues of cash-strapped localities

IN A SESSION DOMINATED by bad economic and revenue news, delegates and senators champion new legislation that would curtail the ability of local governments to fund essential core services.

[HB 2182](#) (Phillips) would allow localities to exempt veterans and the surviving spouses of veterans from local vehicle license fees and taxes. Under current law (§ [46.2-755](#)), vehicles owned by veterans and surviving spouses with disabilities that limit or impair their ability to walk as defined in § [46.2-100](#) can be exempted. There are 5,217 special license plates issued to veterans and surviving spouses.

The bill would substantially extend, under local option, the benefit to all honorably discharged former members of one of the armed forces of the United States and surviving unmarried spouses. According to the federal Department of Veterans Services, there are almost 814,000 veterans residing in Virginia. Although the measure is not a mandate, it could have significant fiscal implications for localities.

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Inside ...

- Eminent domain amendment advances
- Homestead exemption bill rejected in House
- Right to work amendment falters

Legislative links

- [Find a bill \(state LIS\)](#)
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Dialogue

“... I believe the industry has spoken loud and clear: They don’t care what we did last year. I have very little sympathy for them as an industry, because whatever we do here, they’ll be back again trying to undo what we try to put in place.”

... Sen. Phillip Puckett accusing payday lenders of executing an end run around legislation passed last year to regulate some of the industry’s most egregious practices.
From the Jan. 27 *Roanoke Times*.

Cover story continued ...

HB 2601 (Massie) and **SB 1514** (Smith) would require that the notice of a new assessment be sent to the taxpayer at least 30 days prior to the date of a hearing to protest the assessment, and contain specific information regarding the new tax levy and the prior year's tax levy. Under current law, when a locality conducts a reassessment or changes the assessed value of any real estate, the locality is required to mail notice directly to each property owner whose assessment has been changed at least fifteen days prior to the date of a hearing to protest the reassessment or change in assessed value.

Every notice must already contain the following information: 1) the magisterial or other district in which the real estate is located; 2) the amount of the new and immediately prior appraised value of land; 3) the new and immediately prior appraised value of improvements; 4) the new and immediately prior assessed value of each if different from the appraised value; and 5) the time and place at which persons may appear before the officers making such reassessment or change. Further, if the tax rate that will apply to the new assessed value has been established, the notice must include that rate, the total amount of the new tax levy, and the percentage change in the new tax levy from the immediately prior one. If the tax rate that will apply to the new assessed value has not been established, the notice must set out the time and place of the next meeting of the local governing body. These additional requirements do not apply for changes in assessments that arise solely from the construction or addition of new improvements to real property.

The bill would also require additional information be added to every notice, regardless of whether the tax rate that will apply to the new assessed value has been established. The required information includes the new tax rate, the total amount of the new tax levy, the total amount of the prior year's tax levy, and the percentage change in the new tax levy from the prior year's tax levy. As the additional information required by this proposal to be included with the notice of assessment cannot be determined until the new tax rate has been set, this proposal would delay the issuance of the notice of assessment until after the local real estate tax rate has been set. The effective date of this bill is Jan. 1, 2010. Massie's bill has not yet been referred to a committee. Smith's bill is in the Senate Finance Committee.

Sen. Jill Vogel has introduced a measure – **SB 1272** – which is identical to Del. Mark Cole's **HB 1730**. VML reported on **HB 1730** in the Jan. 15 *Legislative Bulletin*. Both bills require a sunset date of no more than four years on all taxation bills that add or increase a state or local tax, prior to reporting of the bill by a committee of the General Assembly. Cole's bill is before **House Finance Subcommittee #2**. **SB 1272** was sent to **Senate Rules**. It is likely that **SB 1272** will be re-referred to Senate Finance.

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

Eminent Domain

One eminent domain amendment passes subcommittee test

A Senate Privileges & Elections subcommittee voted 3-2 with one abstention to recommend passage of **SJR 290** (Obenshain), an amended version of a constitutional amendment limiting eminent domain. It appeared that the amendment would be heard in the full committee as early as 4 p.m. today.

A House Privileges and Elections subcommittee heard a substitute version of a constitutional amendment limiting the use of eminent domain authority at its meeting on Monday. **HJR 725** (Bell) was then passed by for a week to allow the opponents time to examine the substitute, which had not been distributed prior to the meeting.

Local governments, in concert with the business community and other interested parties, oppose the enactment of a constitutional amendment on eminent domain, preferring that issues with eminent domain be handled on a statutory basis. Further, the eminent domain statute was thoroughly overhauled in 2007 to limit the use of this authority. Not enough time has elapsed since 2007 to determine if there are any problems with that statute. The House subcommittee will meet at 7 a.m. Feb. 3. Two other amendments on eminent domain that have been introduced were folded into **HJR 725**.

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

Land Use

Bill strips power to place specific end date on special use permits

SB 1533 (Saslaw) extends any special use permit on the books as of Jan. 1 by an additional five years, despite any ordinance that makes the use end earlier.

In some cases this is not a problem. Special use permits with an end date, however, have the end date for a reason – the use will conflict with a new subdivision coming on-line, or the use is allowed to exist for a while until the natural life end of the equipment operating as a part of the use. The bill will throw those balancing acts that councils and boards went through into turmoil.

The bill will be heard Tuesday, Feb. 3, in the Senate Local Government Committee.

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

Other bills...

Vacant residential properties; permits localities to require mortgage lenders to provide name, etc - **HB2150** (Rust)

Summary: Permits localities to adopt an ordinance to require mortgage lenders or mortgage loan service providers to provide the locality with the name and contact information of a person living or working in such locality, or within 25 miles of that locality, for each vacant residential property where the mortgage loan is in default for three months. The locality may require mortgage lenders or mortgage loan service providers to pay a \$25 processing fee for each property registered, and failure to register properties in violation of the ordinance could be subject to a civil penalty not to exceed \$500. If the mortgage lender or mortgage loan service provider has registered the loan on the property with a national mortgage loan electronic registration system to which the locality may have access, then the mortgage lender or mortgage loan service provider shall not have to also register that property with the locality and shall be deemed to have complied with any such ordinance.

Action: Likely to be heard by the [House Counties, Cities and Towns Sub-Committee 2](#), Thursday, Jan. 29, at 7:30 a.m. in the 5th Floor East Conference Room of the General Assembly Building.

Urban development areas; cities and towns to have until July 1, 2011, to amend comprehensive plans – **HB 2322** (Athey)

Summary: Provides that cities and towns shall have until July 1, 2011, to amend their comprehensive plans in accordance with the provisions of § 15.2-2223.1. Currently, only counties have until July 1, 2011, to amend their comprehensive plans in accordance with the provisions of § 15.2-2223.1.

Action: Likely to be heard by the [House Counties, Cities and Towns Sub-Committee 2](#), Thursday, Jan. 29, at 7:30 a.m. in the 5th Floor East Conference Room of the General Assembly Building.

Zoning appeals, boards of; changes standard by which variance can be granted – **HB 2326** (Athey)

Summary: Changes the standard by which a variance can be granted by eliminating the requirement for a showing of a hardship approaching confiscation and instead requiring a clearly demonstrable hardship.

Action: Likely to be heard by the [House Counties, Cities and Towns Sub-Committee 2](#), Thursday, Jan. 29, at 7:30 a.m. in the 5th Floor East Conference Room of the General Assembly Building.

Cash proffers; requires localities to phase-out acceptance thereof – **HB 2613** (Hall)

Summary: Requires localities to phase out the acceptance of cash proffers by July 1, 2014.

Action: Referred to the [House Counties, Cities and Towns Committee](#).

Zoning ordinance enforcement; not to be charged therewith unless landlord knew of tenant's conduct – **HB 2653** (Bulova)

Summary: Provides that localities may enforce violations of the zoning ordinance by tenants of single-family residential dwellings; however, the owner of such dwelling shall not be charged with a zoning violation unless the landlord knew or had reason to know of the tenant's conduct.

Action: Referred to the [House Counties, Cities and Towns Committee](#).

Local Authority

Independent city constitutional amendment heard by subcommittee

A Senate Privileges & Elections subcommittee has sent a constitutional amendment on independent cities to the full committee without a recommendation. The amendment eliminates the word “independent” in the definition of city in the Virginia Constitution.

Sen. John Watkins said he introduced [SJR 335](#) to force a discussion of independent city issues. Watkins said the constitutional amendment did not address any current statutes regarding cities. The subcommittee did not have a quorum and was unable to take a vote on the bill, which is likely to be heard in the full committee today at 4 p.m. Staff contact: Mary Jo Fields (mfields@vml.org)

Personnel

Right to work amendment stalls in Senate committee

[SJR 347](#) (McDougle) would place a “right to work” provision in the state Constitution. Sen. Ryan McDougle said that the main effect of his bill would be on state and local government employees, since the federal Constitution pre-empts interstate commerce issues affecting the private sector.

McDougle said a number of sheriffs had approached him with concerns about the possibility of federal legislation on collective bargaining or police procedural guarantees that would require those officers to bargain collectively with their deputies. A Senate Privileges & Elections subcommittee voted 4-2 against recommending the amendment at its Jan. 27 meeting. A similar amendment is pending in the House.

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

Taxes/Revenues

Homestead exemption legislation nixed in House, advances in Senate

A House Privileges & Elections subcommittee rejected this year’s version of homestead exemption legislation on Monday. [HJR 686](#) (Brink) would have amended the state Constitution to allow the General Assembly to enact legislation to allow localities to offer a “homestead exemption” on up to 20 percent of the assessed valuation of owner-occupied property. The Virginia Farm Bureau, Virginia Agribusiness Council and the Virginia Chamber of Commerce testified against the bill, which failed to gain a motion to report.

A Senate Privileges & Elections subcommittee recommended reporting a similar constitutional amendment, [SJR 333](#) (Whipple), today.

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

Disabled veterans tax exemption likely to advance

The Senate Privileges & Elections Committee was likely to advance [SJR 275](#) (Puller) at its meeting this afternoon. The constitutional amendment exempts veterans who are 100 percent permanently and totally disabled as the result of service in the military from paying real estate property taxes.

The amendment is an initiative of the Senate Democratic caucus. Similar legislation will be heard Monday, Feb. 2 in a House Privileges & Elections subcommittee. [HJR 648](#) (O’Bannon) and [HJR 669](#) (Janis)

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

Other bills ...

Moving on

The Senate unanimously approved [SB 1008](#), legislation introduced by Sen. Fred Quayle to shorten the notice requirements to 14 days for the public hearing every locality must hold prior to increasing its real property tax when that locality’s assessment of real property results in an increase in real property tax revenue of greater than 1 percent over the prior year’s revenue. Under current law, notice must be given at least 30 days in advance. The bill’s provisions would

kick in when the General Assembly fails to pass a general appropriation act or amendments to the general appropriation act by April 30.

Defeated

A Senate Privileges & Elections Committee voted to recommend passing by indefinitely SJR 349 (Newman), a constitutional amendment that would allow localities to cap annual increases in assessments. It is possible that the full committee could overturn the action when it meets.

Miscellaneous

Senate committee to hear bills broadening VRA authority to finance projects

Sen. Charles Colgan, chairman of the Senate Finance Committee, has introduced legislation – [SB 989](#) and [SB 1451](#) – that could expand the Virginia Resource Authority’s ability to meet the capital needs of local governments. Both bills are before Senate Finance.

In the 2008 Session, Colgan pushed through legislation authorizing the [Virginia Resources Authority](#) (VRA) to finance construction of local government buildings. [SB 989](#) expands the definition of “construction of local government buildings” to include administrative and operations systems, and other local government equipment and infrastructure.

[SB 1451](#) would increase from \$900 million to \$1.5 billion the authority’s power to issue bonds backed by the moral obligation of the Commonwealth. As of June 30, 2008, VRA had \$681.9 million of moral obligation bonds outstanding. VRA also issues non-moral obligation debt. The authority had some \$1 billion of non-moral obligation bonds outstanding as of the close of FY08.

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

Legislators seek to use tax credits to boost housing choice voucher programs

[SB 1019](#) (McEachin) and [HB 2106](#) (McClellan and Englin) would use [Neighborhood Assistance](#) tax credits to encourage landlords to participate in housing choice voucher programs for low-income tenants. [SB 1019](#) is before Senate Finance, and [HB 2106](#) was referred to House Finance.

The bills would allocate \$4.5 million in Neighborhood Assistance tax credits by transferring \$500,000 from another tax credit program and by reserving \$4 million from the Neighborhood Assistance tax credit’s current annual appropriation of \$12 million. Landlords would receive the credits from the Virginia Department of Housing and Community Development in an amount equal to 40 percent of the fair market value of the rent for each qualified housing unit. Unused tax credits could be carried forward for a period of five years.

A qualifying unit would have to meet these criteria:

- Be located in census tracts in which less than 10 percent of the residents live below the poverty level.
- Be included in a housing choice voucher program.
- Be in substantial compliance with the Uniform Statewide Building Code.
- Contain at least four units with no more than 25 percent of the units on the parcel included in the housing choice voucher program.

The bills also extend the sunset date of the Neighborhood Assistance tax credit program to July 1, 2011.

State control over local elections slowed down

[HB 1892](#) (Brink) as originally introduced gave the State Board of Elections authority to oversee and discipline local voter registrars. The bill met strong resistance from local registrars, and has been held over for a week to allow the patron and registrars to work out a compromise focusing on training issues and softening the provisions related to any oversight by the State Board over local registrars.

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

Early voting bills continue to falter

HB 2496 (Alexander) would have allowed cities or counties to agree to participate in an early voting pilot project. The bill was tabled by a House Privileges & Elections subcommittee today. The subcommittee also has tabled other bills allowing early voting or no-excuse voting, an initiative promoted by Gov. Tim Kaine.

[SB 810](#) (Howell), a similar bill, has passed the Senate, but likely will face the same fate as the other early voting bills when it gets to the House.

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

Other bills ...

Affordable housing assessments – [SB 1052](#) (Whipple)

Summary: Provides for a determination of fair market value of affordable rental housing, allows for localities to determine definition of affordable rental property, and does not allow the determination to be made if pending building code violations exist. The building owner must have more than four residential units that are operated in whole or in part as affordable rental housing to be eligible for the special assessment. The Virginia Housing Commission backs the bill.

Action: The bill was referred to the Senate Finance Committee.

Defeated

A subcommittee of the House Agriculture, Chesapeake and Natural Resources Committee recommended laying on the table [HB 2263](#) (Kilgore), which would have moved oversight and governance of animal control officers from the State Veterinarian to the Department of Criminal Justice Services.

More ...

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

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[House Membership >](#)

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

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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.

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Link to live audio stream of Senate floor sessions.

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[Legislative Meeting Schedule >](#)

Up-to-date listing of legislative committee meetings.



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