

**VMI**

January 29, 2009

Legislative Bulletin

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

Find it fast

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Upcoming

The [Senate Committee on Rehabilitation and Social Services](#) will take up a variety of bills dealing with the Comprehensive Services Act Friday at 8:30 a.m. in Senate Room B of the General Assembly Building adjacent the capitol. [Jan. 30 committee docket.](#)

Assortment of House bills could affect local finances

IN A MEETING LASTING through the afternoon and into the evening, House Finance Subcommittee #2 recommended several pieces of legislation to the full committee that could affect local finances.

[HB 2635](#) (Cline) would authorize local governments to publish certain information relating to warrants paid for the locality by the local treasurer. Under the provisions of this bill, local governments would be authorized to publish by any means, including the Internet, the name of the payee, the amount of the warrant, the number assigned to the warrant and the date of payment. Local governing bodies would also be authorized to release information on local warrants for refunds of taxes, provided that such information is classified or aggregated so as to prevent the identification of payees of tax refunds. Localities would be prohibited from publishing any information that is protected under federal or state law, including, but not limited to confidential record. Identical legislation ([SB 812](#) and [SB 1129](#)) was defeated on an 8-8 tie vote in the Senate Finance Committee earlier this week.

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Inside ...

- Opposition to blight bills arise; VML presses fight
- Bill would mandate some local investments
- Bill slows implementation of new education standards

Legislative links

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Dialogue

“It’s not their habit.”

... Sen. Mark Obenshain, responding to a question about whether nuns routinely carry identification, during a subcommittee discussion on a bill that would liberalize voter ID requirements – [SB 963](#).

Cover story continued ...

HB 2135 (J.H. Miller) changes the basis on which recordation taxes are calculated on the transfer of real estate to the stated consideration for the real estate. Under current law the basis is the consideration for the real estate or the value of the real estate, whichever is greater.

In the Senate, VML and VACo are working with the Virginia Association of Realtors to convert the **SB 1157**, which is a companion measure to **HB 2135**, into a study to determine if the fiscal impacts are slight or significant. The Department of Taxation reported in its fiscal impact statement that, if enacted, “the amount of the revenue reduction is unknown.”

HB 2472 (Hugo) 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. Under current law, persons 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. Sen. John Watkins introduced the Senate version (**SB 1419**), which is before the Senate Finance Committee.

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

Education

Bill would slow implementation of new accreditation standards

The House Education Committee reported a bill Wednesday that would delay the implementation of changes to the Standards of Accreditation.

HB 2166 (Lohr) prohibits additional requirements in state accreditation standards until July 1, 2010, unless the requirements are mandated by the federal government. The bill specifically prohibits the institution of higher graduation rates and mandates that the passing rates required for full accreditation in the 2010-2011 school year be the same as the passing rates required for full accreditation during the 2008-2009 school year.

The State Board of Education is considering revising the Standards of Accreditation to establish a graduation and completion index as part of the accreditation process, require an Academic and Career Plan for students beginning in grade seven, and increase other accreditation requirements. **HB 2166** would delay the

implementation of any new standards, should they be adopted.

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

Eminent Domain

Defeated

A Senate Court of Justice subcommittee tabled **HB 2107** (Bulova), which would have restricted a locality’s ability to exercise “quick take” condemnation authority under §15.2-1904 by limiting the use of “quick takes” to actions involving (i) streets and roads, (ii) drainage facilities, (iii) water supply and sewage disposal systems, including pipes and lines, and (iv) oyster beds and grounds.

Environment

House committee endorses local recycling programs for rechargeable batteries

The **House Agriculture, Chesapeake and Natural Resources Committee** passed unanimously a measure that allows local governments to enforce bans on the disposal of rechargeable batteries provided the locality has implemented a recycling program that is capable of handling all rechargeable batteries generated within its jurisdiction.

HB 2177 (Plum) would enable local governments take advantage of a cost-free program supported by the nonprofit **Rechargeable Battery Recycling Corp. (RBRC)**. The program provides convenient drop-off sites for the disposal of rechargeable batteries and cell phones, thereby preventing their entrance into the solid waste stream.

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

FOIA

Moving along ...

The House General Laws Committee reported **HB 2266** (Ware), which expands the current record exemption for the names, addresses, and telephone numbers of complainants relating to zoning enforcement complaints made to a local governing body to also include complaints relating to the Uniform State-wide Building Code or the Statewide Fire Prevention Code.

Land Use

Opposition to blight bills arises; VML presses case

The two blight bills, [HB1671](#) (Dance) and [SB 1094](#) (Locke), are on the floors of their respective houses. One private property rights group and a law firm that specializes in representing private landowners in condemnation proceedings have decided, incorrectly, that the bills expand eminent domain powers.

VML and others are making it clear to members of the House and Senate that the bill does not expand eminent domain powers; does not allow a locality to force the owner of a derelict building (vacant, boarded up and no utilities for six months) to make his neighbor do anything. The private groups allege that when the owner of a derelict building submits a plan for renovation, he may force his neighbor to allow his house to be torn down. This is simply untrue and the General Assembly and local governments would lack the power to do that.

Please contact your senator and delegate to ask for their support in this effort to deal with derelict buildings.

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

Other bills

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

Summary: The original bill limited to extending site plans and subdivision plats for 5 years, but the substitute bill added special use permits, conditional use permits and special exceptions. SUPs, CUPs and special exceptions should not be extended. Often, when there is a limit on one of those, it is done to balance the applicant's rights with the rights of the neighbors who are impacted by the use. Operating a quarry to supply rock for a new, major residential and commercial project is an example. The substitute bill throws that balancing of the rights of the neighbors and the applicant out.

Action: The bill is scheduled to be heard in [Counties, Cities and Towns Sub-Committee 2](#) Thursday, Feb. 5

Moving along ...

The [Counties, Cities and Towns Sub-Committee 2](#) reported [HB 2029](#) (Marshall) that reduces the bonding requirement from 25 percent to 10 percent of estimated construction costs for the administrative allowance required from a developer.

The subcommittee rejected VML's request to change the bond reduction to 15 percent instead of the 10 percent in the bill, but did make it apply only to bonds issued or renewed after July 1 2009.

The [House Counties, Cities and Towns Sub-Committee 1](#) reported [HB 1735](#) (Valentine) that grants statewide authority for creation of arts and cultural districts by localities. The bill is scheduled to be taken up by the full [Counties, Cities and Towns Committee](#) on Friday.

Defeated

The [Counties, Cities and Towns Sub-Committee 2](#) defeated [HB 1879](#) (Cosgrove) that would have given localities with a population of more than 100,000 alternatives to publication in newspaper of general circulation in the locality. The full [House Counties, Cities and Towns Committee](#) could still decide to hear the bill.

The [Counties, Cities and Towns Sub-Committee 2](#) defeated [HB 2120](#) (Nichols) that would permit localities to charge a property owner for the cost or expenses of abating graffiti that occurs on his vacant property, and to collect such charges as taxes are collected. If the charges remain unpaid, they shall constitute a lien and become enforceable in the same manner as unpaid local taxes. The full [House Counties, Cities and Towns Committee](#) could still decide to hear the bill.

The [Counties, Cities and Towns Sub-Committee 2](#) defeated [HB 2125](#) (Byron) that would allow a locality to require, by ordinance, that a person applying to the local governing body, local planning commission or board of zoning appeals for a planning or zoning matter shall post a sign notifying the public of the place and time of the public hearing regarding his property, the cost of which may be paid by the applicant. The locality shall specify any additional information to be on the sign, as well as the size and placement of the sign.

Local Authority

Independent city amendment remains on committee docket

[SJR 335](#) (Watkins) removes the word “independent” from the definition of city in the state constitution. Watkins has said that he introduced the bill to force a discussion of city issues. The amendment will be heard by the Senate Privileges & Elections Committee at 4 p.m. on Tuesday, Feb. 3.

Public Safety

Defeated

The Senate Local Government Committee failed to report [SB 832](#) (Locke), which would have provided that localities may adopt an ordinance that prohibits firearms, ammunition, or components or combinations thereof in community or recreation centers, administrative buildings, or public libraries owned or operated by the locality during an official meeting of the governing body.

The Senate Local Government Committee failed to report [SB 1053](#) (Whipple), which would have provided that the governing body of any locality may, by ordinance, make it unlawful for any person to possess a dangerous weapon upon the property, including buildings and grounds thereof, of any facility that is owned or leased by that locality and used by it for governmental purposes.

The House Militia, Police and Public Safety Committee tabled [HB 2384](#) (Scott), which would have allowed the governing body of any county, city, or town to enact a local safety belt ordinance consistent with the state law. Presently, this ability is limited to the City of Lynchburg.

Taxes/Revenues

House panel OKs eliminating property tax on pollution control equipment

A [House Finance Subcommittee](#) unanimously approved [HB 2084](#) (Purkey) to exempt from state and local property taxation all certified pollution control equipment and facilities. The bill will be heard and reported next week from the House Finance Committee. If enacted, the bill will take effect July 1.

Under current law, localities have the option to impose or exempt or partially exempt such equipment from taxation. According to the Weldon Cooper Center for Public Service’s *Tax Rates 2008*, 24 cities, 73 counties and 146 towns reported that they do not provide an exemption. Local governments relying on this tax to fund services should alert their delegations and VML as to HB 2084’s fiscal impact.

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

Disabled veteran tax exemption advances

As expected, the Senate Privileges & Elections Committee reported [SJR 275](#) (Puller) at its Jan. 27 meeting. 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. Similar legislation - [HJR 648](#) (O’Bannon) and [HJR 669](#) (Janis) will be heard in the House Privileges & Elections subcommittee on Monday, Feb. 3.

The fiscal effect of the legislation is unknown, as there is no accurate data on the number of veterans covered, where they live, and whether they own homes. The fiscal effect may not be very large, since many of the veterans may qualify for programs for tax relief for the elderly and disabled. Regardless of the fiscal effect, VML’s position is that the state should provide tax relief through the use of its own tax resources, rather than those of local governments. For example, the state could rebate veterans the amount paid for real estate taxes.

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

Moving on ...

SB 986 (Colgan) is the administration's bill to 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. Savings from SB 986 are included in the Gov. Tim Kaine's budget amendments. The bill was reported from the Senate Finance Committee, and is headed for consideration by the full Senate.

Transportation

Senate bill would raise Northern Va. regional transportation funds

SB 1532 (Saslaw) changes the tax on fuels sales in Northern Virginia in two ways.

First, distributors would collect the tax at the time of making fuels sale to retail dealers located in Northern Virginia. Under the current law, the retail dealers collect the tax for sales made at the gas pump.

Second, the tax rate would increase from 2 percent to 2.1 percent. The bill is before the Senate Finance Committee.

Senate committee passes fuel fee to cover local law enforcement costs

SB 979 (Stuart) would permit local governments to establish a fee, not to exceed \$10, on all motor vehicle violations issued by local police officials. The fee would go to the locality for the purpose of purchasing fuel for local law-enforcement vehicles. The bill, with support from VML and the [Virginia Sheriffs' Association](#), was passed by the [Senate Transportation Committee](#) 11-3.

The dollars generated by this option present a logical nexus between a fee and expenditure and would help defray the costs of local law enforcement. In light of recent and proposed budget cuts in state aid for local police, VML welcomes innovative funding options.

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

Miscellaneous

Mandated investments for local investment pool proposed

HB 2583 (Merrick, et al) would mandate that no less than 10 percent of the Local Government Investment Pool (LGIP) assets be invested in time, savings, or demand deposits in Virginia banks. The bill will be heard Tuesday, Feb. 3, in House Appropriations Subcommittee on Technology and Government Oversight.

The bill is a part of what House Republicans describe as an economic stimulus package. It affects only local government investments, not a dime of state investments.

The LGIP is used by local governments for short-term investments, not economic development purposes, so liquidity is a major issue for users, along with safety of the investments and the return on the investment. According to state treasury staff, many local governments use their local banks for longer-term and other types of investments where liquidity is not a prime concern.

The investment pool currently holds an AAA rating. It is used by about 200 local political subdivisions. Many smaller local governments depend on the pool – it's user friendly, it gives a good return, and it's completely liquid. According to treasury staff, because the pool is AAA rated, it allows local governments to state on their financials that they use AAA-rated investments. The investments are chosen by finance professionals.

According to state treasury staff, this bill would jeopardize the pool's AAA rating by imposing a quota on the pool's investments, (10 percent of the fund is about \$360 million, according to Virginia Department of Planning and Budget's fiscal impact statement). If that is so, local governments would have to state on their financials that they were investing in unrated funds.

Dictating where funds are to be invested would likely decrease the return on investments, and could cause liquidity problems for pool users. Liquidity problems can, and do, happen overnight.

VML urges members to talk to their members of the House Appropriations Committee, in particular those on the technology and government oversight subcommittee, about the effect that such a bill could

have on their short-term investments. The members of the Appropriations subcommittee are: Landes (Chair); Ingram, May, Jones, Lingamfelter, O. Ware, Shannon and Bowling.

Please e-mail Janet Areson at VML, (jareson@vml.org) if you communicate with your House member.

Bills to regulate smoking drift out of Senate committee

The [Senate Committee on Education and Health](#) reported out an assortment of bills aimed at regulating smoking. All of the bills summarized below passed 11-3.

[SB 870](#) (Lucas) allows localities to exceed the requirements of the Virginia Indoor Clean Air Act when adopting or enforcing ordinances that regulate smoking.

[SB 1002](#) (Quayle) allows localities to adopt ordinances containing standards or provisions relating to smoking in restaurants that meet or exceed standards set by the Virginia Indoor Clean Air Act.

[SB 1057](#) (Whipple) prohibits smoking indoors in most public buildings with the requirement that “No Smoking” signs be posted. Exceptions include private residences, private clubs, hotel rooms, tobacco stores and manufactures and private rooms in long-term care facilities. Civil penalties range from fines of \$100 to \$500 for individuals and proprietors who fail to comply.

[SB 1105](#) (Northam) and [SB 1160](#) (Saslaw) were rolled together in a substitute amendment. [SB 1105](#) prohibits smoking in all indoor restaurants and bars and requires “No Smoking” signs to be posted. There is a \$25 civil penalty for violations.

Also, [SB 1382](#) (Stolle) that creates a statewide ban on smoking in restaurants is being held until next week.

Moving on ...

[SB 1019](#) (McEachin) would provide tax credits from the Neighborhood Assistance Program for landlords who participate in a housing voucher choice program. The bill was reported in the Jan. 27 *Legislative Bulletin*. The Senate Finance Committee unanimously reported SB 1019. The bill is headed to the Senate floor.

[SB 1175](#) (Watkins) as originally introduced would have provided that a service charge may be levied upon a county, city or town owning real or personal property within the boundaries of another locality. The service charge being equal to the amount that would be assessed as taxes on real property as if such property were otherwise subject to tax valuation and assessment. The Senate Finance Committee approved a substitute bill, narrowing the measure’s broad focus to Cumberland County only. A separate enactment clause directs the [Commission on Local Government](#) to submit a report to the Governor and General Assembly on the statewide fiscal impact to local property taxes from local governments owning, directly or indirectly, recreational facilities within the geographical boundaries of another locality.

More ...

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

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.

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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

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