



February 12, 2010



# Legislative Bulletin

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

## Find it fast

➤ *Indicates active link*

- Budget
- Education
- Eminent Domain
- Environment
- Finance/Taxes
- FOIA
- Human Services
- Land Use
- Local Authority
- Personnel
- Public Safety
- Retirement/Benefits
- Transportation
- Miscellaneous

 Follow us on Facebook  
 Follow us on Twitter

## Upcoming

Tuesday is Crossover Day – the deadline for each chamber to pass most of its own bills and send them to the opposite chamber. Hundreds of bills will be voted up or down over the next few days. VML will keep you apprised of the issues of most interest to local governments. The deadline for each chamber to produce budget bills is Feb. 21.

## Local officials brave elements to lobby legislators at Capitol

### VML-VACo Legislative Day draws 350 despite weather

ABOUT 350 LOCAL government officials braved the aftermath of wicked winter weather and made their way to Richmond on Thursday for VML-VACo Legislative Day. Participants were briefed on the status of legislation of interest to local governments before making their way to Capitol Square to lobby their delegates and senators. A reception was held beginning at 5:30 p.m.

The following is an excerpt of remarks made to the gathering by VML President Lance Terpenny, town manager of Christiansburg:

“... Frankly, we’ve heard nothing but bad news for some time now, and while the economy may be beginning to improve, I think we all know that the improvement will be slow and that local governments in particular face some very difficult years.

*Continues on next page*

### Inside ...

- Senate Democrats struggle to find way through budget minefield
- House Committee alters gun buy-back programs

## Legislative links

- Find a bill (state LIS)
- State budget Web site

## Dialogue

*“What they seem to be upset about is that I have come out against tax increases, which limits their options. What they ought to be doing is spending time up in the Senate Finance Committee crafting a budget.”*

... Gov. Bob McDonnell talking to reporters about complaints by Senate Democrats that he has not publicly outlined what programs and projects he wants cut to balance the state budget. From the Fredericksburg *Free Lance-Star*.

## Cover story continued ...

“Perhaps it is all too easy for me to say this, because I’m a manager, and I don’t have to sit in front of crowds of people and vote to raise taxes or to decrease services. But elected or not, I can tell you that I feel your pain, and I know that the development of next year’s budget will be the most difficult one for me in my 20 years of working for local government.

“We are getting hit hard by state budget cuts, and unfortunately the state appears to be taking the path of simply passing on funding reductions to us without any strong attempt to change the service requirements that it places on us. We are going to be facing the

### Legislative Day photos ►

very difficult choices of reducing basic services or increasing taxes. In

fact, many of us will be facing reductions in services even if taxes are increased.

“I hope that as we move forward through this budget cycle that we take the stand that we will not become the scapegoat for the state’s failure to fund the basic services that we are told to deliver. I like the approach taken by a supervisor in Chesterfield County in response to citizen complaints about reductions in education funding. He said the state was cutting funding, and he suggested that the citizens make sure that they let their delegate and senator know of their concerns about cuts in education.

“I think that for far too long we have been enablers. We have enabled the state to put into place high accountability standards for education, but we have provided the extra funding – more than \$3 billion a year in extra local dollars – to make sure that our schools and our students could meet those standards. We have stepped in to cover inadequate funding by the state in too many areas and for too many years.

“Most of the local governments in this room will not be able to continue that extraordinary commitment, much less make up for unprecedented reductions in state funding. I urge each of you to make sure that our citizens realize that they can’t be content with just telling us that they are upset about the elimination of education programs, the closing of libraries, the deterioration of our roads. We have to get the message across that those concerns also need to be expressed to their state legislators.

“Later today {VACo} President Bradshaw and I will meet with Governor McDonnell. We’ll certainly discuss the economy and the state budget, and we’ll certainly carry your concerns to the meeting.”

Attorney General Ken Cuccinelli opened Thursday’s program with an address detailing the jobs creation initiatives being pursued by the administration of Gov. Bob. McDonnell.

## Budget

### Senate Democrats struggle to find way through budget minefield

In his parting budget, Gov. Tim Kaine proposed not to fund the state’s Car Tax Relief Program. In place of state dollars, he recommended implementing a 1 percent surtax on personal income with the proceeds allocated to those local governments willing to eliminate the car tax on personal use vehicles. To reinstate the program without an infusion of new revenue, the General Assembly will have to cut spending by \$950 million in FY11 and again in FY12 for a total of \$1.9 billion.

Gov. Bob McDonnell wants the Car Tax Relief Program to continue without resorting to tax increases. To that end, he has directed his secretary of finance and other members of his finance team to meet privately with delegates and senators to suggest areas of the state budget to be cut. None of these ideas or suggestions have been released to the public, but the *Washington Post* reports that the budget-cutting suggestions include \$700 million more from public education, about \$300 million from health and human services programs, and \$700 million from employee compensation, largely from changes to the state’s retirement plan and significant furlough time for state employees.

Senate Democrats were taken aback by the size and scope of the suggested reductions, and may be more than a bit wary about having their “fingerprints” on the additional spending cuts. But, a number of Senate Democrats want the Car Tax Relief Program restored to the state budget, and like the Republicans in both chambers, do not want to raise taxes.

As the dominant party in the Senate and with a commanding 9-6 majority on the [Senate Finance Committee](#), the Democrats are responsible for leading the effort to put together the Senate’s budget amendments. With just 10 days remaining until they must report out their amendment package and without a unified position, it is likely that the leaders of the Senate Democrats will have to rely on Senate Republicans to pass the Senate Finance Committee’s amendments.

## Education

### Other bills ...

#### Redirect class size reduction programs to direct aid – **SB 353 (Obenshain)**

**Summary:** Distributes K-3 class size reduction funds as direct aid.

**Action:** Failed for lack of a motion in Senate Finance on Feb. 11.

#### Virginia Construction Revolving Loan Fund – **HB 351 (Rust)/ SB 364 (Barker)**

**Summary:** Creates revolving loan fund to finance school construction projects.

**Action:** Failed in committees.

#### Composite index – **HB 1141 (Morgan)**

**Summary:** Changes weights assigned to revenue sources in computation of composite index.

**Action:** Tabled in House Appropriations subcommittee on Feb. 10.

#### Standards of Quality – **HB 558 (Tata)**

**Summary:** Codifies staffing standards for special education, gifted education, and career and technical education. This was an initiative of the Board of Education.

**Action:** Tabled in House Appropriations subcommittee on Feb. 10.

### Other bills ...

#### Elimination of triennial census – **HB 669 (May) / SB 413 (Vogel)**

**Summary:** The bills would use an estimate of school age population (ages 5-19) produced by the Weldon Cooper Center at UVA in lieu of the triennial census conducted by school divisions for the distribution of the state sales tax dedicated to public education and for the distribution of the portion of the one percent local option sales tax to towns.

**Action:** HB 669 was tabled by a House Appropriations subcommittee on Wednesday; SB 413 was reported by the Senate Finance Committee on Thursday.

## Finance/Taxes

### Other bills ...

#### Personal property tax; machinery and tools – **HB 613 (Purkey)**

**Summary:** Begins the phase-out of machinery and tools taxes by classifying new investments in machinery and tools for manufacturing, processing and reprocessing, mining, and radio and television broadcasting made after July 1, 2010, as intangible personal property and not subject to local property tax.

**Action:** Reported 18-4 on Wednesday from the House Finance Committee.

#### Short-term rental property tax; local government to exempt person engaged in rental business – **HB 1301 (Lohr)**

**Summary:** Authorizes localities with BPOL tax to impose a short-term daily rental tax if the business qualifies under state statute. Also authorizes localities with merchants' capital taxes to impose on qualified businesses either the short-term daily rental tax or the lower-rate merchants' capital tax, but not both.

**Action:** Reported a substitute bill from the House Finance Committee Wednesday 21-1. The substitute conforms HB 1301 to the compromise amendments developed by VML and VACo along with the business community, and approved by the Senate in **SB 355 (Obenshain)** on Tuesday.

## Land Use

### Temporary family healthcare structures bill moves ahead

A bill that makes it easy for a homeowner to install a temporary room in the back yard where a family member would live while receiving health care from the homeowner was reported by a House committee Friday morning, but only after being heavily amended to accommodate the concerns of VML and others.

**HB 1307 (Griffith)**, which is designed to allow the family member to stay at home instead of going to a nursing home, was reported by the House Counties, Cities and Towns Committee.

VML suggested a number of amendments agreed to by the bill's patron. The unit may only be 300 square feet; it may only house 1 person; the property owner must obtain a permit for its installation and

must remove it within 30 days of when the family member is no longer being cared for; it must meet the setback limits for the primary structure – the house – and is subject to any maximum floor area ratio the locality’s zoning ordinance includes. Staff contact: Mark Flynn ([mflynn@vml.org](mailto:mflynn@vml.org)).

## Urban Development Area law revised by House committee

The law that requires localities with a positive population growth rate to plan for higher density to accommodate an increasing population was approved by the Counties, Cities and Towns Committee Friday morning. The bill was the subject of extensive negotiation between local governments, environmental groups and the building industry over the last year.

Under the version of [HB 1071](#) (Athey), if a locality has more than 20,000 population and a growth rate of at least 5 percent, or for any locality with a 15 percent growth rate, the locality’s comprehensive plan must include urban development areas in the comprehensive plan. Any other locality may include UDAs in the comprehensive plan. The UDA bill became law in 2007. The major impact of the bill is that it increases the densities for which larger localities must plan. If the locality’s population exceeds 100,000, the plan must designate areas to provide for eight single family homes, 12 townhouses or 24 apartments and 0.8 floor area ratio for commercial per acre.

Localities with the growth rate and a population under 10,000 would need to provide for 4 single family, 12 apartments or townhouses and 0.4 floor area ratio commercial, per acre. (Floor area ratio is the percentage of acreage that must be used by buildings.) The comprehensive plan must contain enough area in one or more urban development areas to provide the densities to meet the expected growth for between 10 to 20 years. Staff contact: Mark Flynn ([mflynn@vml.org](mailto:mflynn@vml.org)).

## Public Safety

### House Committee alters gun buy-back programs

The House Militia, Police and Public Safety Committee reported a number of gun bills this morning, including [HB 108](#) (Cole), which requires localities to pass an ordinance before participating in a gun buy-back program. In addition, the bill requires that

collected guns be sold by public auction or sealed bids to a person licensed as a dealer.

The committee also reported [HB 236](#) (Janis), which disallows a locality from prohibiting hunting within a half-mile radius of a subdivision. Other bills that were reported by the committee include:

[HB 870](#) (Cline) removes the option for a locality to require that an applicant for a concealed handgun permit submit fingerprints as part of the application.

[HB 1070](#) (Athey) prohibits a person with a valid concealed handgun permit from being barred from carrying a concealed handgun in an emergency shelter.

[HB 49](#) (Lingamfelter) repeals the prohibition against purchasing more than one handgun in a 30-day period.

[HB 490](#) (Lingamfelter) directs the Department of State Police to develop a plan to allow for the State Police to issue lifetime concealed handgun permits. Staff contact: Jessica Stuart ([jstuart@vml.org](mailto:jstuart@vml.org)).

## Retirement / benefits

### Retirement overhaul advances in House

Employees would be required to pay 5 percent of their credible compensation to their retirement under a substitute bill recommended for reporting by a House Appropriations subcommittee.

The substitute for [HB 1189](#) (Putney), as expected, is the vehicle for the House approach to revamping the Virginia Retirement System. The bill applies to state and local government employees hired after July 1, 2010 and would produce long-term savings for state and local governments.

Key features are:

- Requires employees to contribute 5 percent of creditable compensation to retirement. (Currently most employers pay the 5 percent employee share on behalf of their employees.)

- Caps the cost of living increases at a maximum of 6 percent. (The current cap is 5 percent. The introduced bill capped the COLA at 4 percent.)

- Establishes a member’s average final compensation (AFC) at the highest consecutive 60 months of salary. (Currently AFC is based on the highest 36 months of salary.)

- Sets age/service eligibility for unreduced benefits using the Rule of 90 (age and service equal 90). Cur-

rently the age/service eligibility is 50/30. The Rule of 90 does not change for public safety employees receiving Law Enforcement Officer Retirement System benefits, however.

- Reduces the retirement multiplier to 1.65 percent of AFC. (The currently multiplier is 1.7 percent.) The change in the retirement multiplier does not apply to public safety employees receiving LEOS benefits.

- Allows new employees hired after July 1, 2010 to purchase service at a rate approximating the normal cost for the retirement program. (This provision was not included in the introduced; it is a new feature of the substitute that was reported.) If the employee does not purchase the service within specified time periods, service could only be purchased at the actuarial equivalent cost (which would be higher than the “normal” retirement rate).

House Appropriations staff member Michael Jay said that the first retirement check would be 6 percent lower than the first retirement check under the current VRS system.

The Virginia Government Employees Association representative testified in support of the bill. The Virginia Education Association and the professional firefighters expressed concern that the reduced retirement benefits would make it more difficult to recruit employees when the economy improves. Staff contact: Mary Jo Fields ([mfields@vml.org](mailto:mfields@vml.org))

## Other bills ...

### Withdrawal of employee share of retirement - HB 892 (Barlow)

**Summary:** Requires a member of VRS to be vested (or have worked for five years) before being eligible to withdraw the contributions made by his employer on his behalf (the 5 percent employee share) when the employee ceases employment. Persons leaving employment before the 5 year vesting period would retain the choice of cashing out their retirement, or leaving their funds in the VRS system. If the person chooses to withdraw from the system and if the employer had paid the 5 percent employee share, that 5 percent would be returned to the employer.

**Action:** House Appropriations subcommittee recommends reporting on Feb. 11. Staff contact: Mary Jo Fields ([mfields@vml.org](mailto:mfields@vml.org))

## Miscellaneous

### House panel pushes governor's economic agenda

The House Appropriations Subcommittee on Economic Development recommended passage of a number of bills comprising the governor's jobs and opportunity agenda. All of these bills received a favorable recommendation for consideration by the House Appropriations Committee.

Bill #	Description
<a href="#">HB 555</a>	Changes the eligibility for enterprise zone job grants in areas with an unemployment rate that is one-and-a-half times or more than the state average to positions paying at least 150 percent of the federal minimum wage, including health benefits.
<a href="#">HB 588</a>	Requires a portion of the wine liter tax collected from the sale of wine produced by farm wineries to be deposited in the Virginia Wine Promotion Fund for use by the Wine Board.
<a href="#">HB 677</a>	Establishes the Specialized Biotechnology Research Performance Grant Program for nonprofit entities engaged in research, development, and production related to molecular diagnostics and drug development.
<a href="#">HB 1244</a>	Authorizes the governor to award grants up to \$2 million for projects located in a central city or urban core area.
<a href="#">HB 1381</a>	Establishes the Major Employment and Investment Project Site Planning Grant Fund to award grants to political subdivisions to assist in site development work for certain prospective projects.

## VML staff & assignments

### R. Michael Amyx

[mamyx@vml.org](mailto:mamyx@vml.org)  
387-9692 (c), 523-8521 (o)  
*Executive Director*

### Mary Jo Fields

[mfields@vml.org](mailto:mfields@vml.org)  
400-0555 (c); 523-8524 (o)  
*Directs lobbying staff. Education, elections, retirement and rules.*

### Janet Areson

[jareson@vml.org](mailto:jareson@vml.org)  
400-0556 (c); 523-8522 (o)  
*Health and human services, state budget.*

### Mark Flynn

[mflynn@vml.org](mailto:mflynn@vml.org)  
400-1321 (c); 523-8525 (o)  
*Legal, housing, blight, land use, zoning, telecommunications and technology.*

### Neal Menkes

[nmenkes@vml.org](mailto: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](mailto:kpollard@vml.org)  
400-1987 (c); 523-8528 (o)  
*Courts and general laws.*

### Joe Lerch

[jlerch@vml.org](mailto:jlerch@vml.org)  
640-5615 (c); 523-8530 (o)  
*Environment, natural resources and transportation.*

### Jessica Stuart

[jstuart@vml.org](mailto:jstuart@vml.org)  
787-3877 (c); 523-8532 (o)  
*Public safety.*

## Consultants

### Randy Cook

McCaul, Martin, Evans & Cook  
[wrcook@mmeccpc.com](mailto: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](mailto:mradcliff@kemperconsult.com)  
649-7945 (o)

## At your fingertips ...

### [Find a bill \(state LIS\) >](#)

A link to the state's Legislative Information System, is the fastest, easiest way to check on the status of a bill.

### [State budget details >](#)

A link to the state's Legislative Information System, is the fastest, easiest way to look up budget bill information.

### [House Membership >](#)

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

### [House Committees and Subcommittees >](#)

Link to General Assembly Web site listing membership of all House committees and their contact information.

### [Senate Membership >](#)

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

### [Senate Committees and Subcommittees >](#)

Link to General Assembly Web site listing membership of all Senate committees and their contact information.

### [House of Delegates Live Audio Stream >](#)

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.

### [Senate Live Audio Stream >](#)

Link to live audio stream of Senate floor sessions.

### [Senate Live Video Stream >](#)

Link to live audio stream of Senate floor sessions.

### [Legislative Meeting Schedule >](#)

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](mailto:e-mail@vml.org)

[www.vml.org](http://www.vml.org)

LOCAL GOVERNMENTS WORKING TOGETHER SINCE 1905