



VMIL

January 15, 2010



Legislative Bulletin

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

Find it fast

➤ *Indicates active link*

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Upcoming

Committee and subcommittee assignments for the Senate will be announced next week. It appears that the Senate Finance Committee membership could be reduced from 16 to 15 senators.

Legislative hubbub gives way to Inauguration Day festivities

SATURDAY MARKS Inauguration Day for Gov.-elect Bob McDonnell, Lt. Gov. Bill Bolling and Attorney General-elect Ken Cuccinelli. The real work for those officials and the 2010 General Assembly will begin in earnest on Monday following a weekend filled with festivities for the three Republicans.

Next week, the General Assembly budget writers will begin to sift through piles of budget amendments submitted by their members (House amendments were due today; Senate amendments are due Monday).

It appears that budget amendments from the new governor will not be among the submittals. Instead, it appears that the governor's office may choose to advance its agenda by working through individual members of the budget committees. Depending on how this is done, it could be tricky figuring out exactly what amendments originated with the new governor.

On the budget front, all the budget subcommittees will begin meeting to collect information about the amendments before them. All other committees of the General Assembly will begin holding subcommittee meetings to sift through the more than 2,000 (and still counting) pieces of legislation introduced thus far.

Inside ...

- Landlord liability bill introduced
- Committee OKs bill authorizing prohibition of soliciting contributions on streets

Legislative links

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

Dialogue

“One of every two (state) dollars comes back to localities in some way. ... You’re not going to make an additional \$2 billion in cuts without having an adverse effect upon monies sent to localities by the state.”

... Sen. Roscoe Reynolds commenting to the Martinsville Bulletin on the consequences of not adopting Gov. Tim Kaine's proposed income tax surcharge and fee increases.

Finance / Revenues

Assortment of fee bills introduced in Senate

A number of bills dealing with various fees have been introduced in the Senate. They include:

SB 124 (Petersen) allows cities and counties to assess a fee, not to exceed \$3 as part of the costs in each criminal or traffic case, to be used solely for an electronic summons system. This bill is in the criminal subcommittee of Senate Courts.

SB 396 (Wagner) allows localities to raise the fee assessed for courthouse construction, renovation, or maintenance above the current authorized amount of \$2 once every two years, based upon the increase in the CPI. This bill is in the Civil subcommittee.

SB 329 (Stuart) increases the court fees in both district and circuit court and allocates the proceeds to the sheriffs' and the clerks' offices to be used exclusively for achieving the current staffing standards for these two constitutional offices. The \$10 fee for the Courts Technology Fund is removed from civil cases. This bill is in the civil subcommittee of Senate Courts.

LGIP bills introduced

SB 484 (Hurt) and **HB 246** (Merrick) require that no less than 10 percent of local government investment pool assets be invested in time, savings, or demand deposits at financial institutions qualified to accept public deposits under the Virginia Security for Public Deposits Act.

The bills are identical to the legislation that passed last year with a re-enactment clause. SB 484 is in Senate General Laws and Technology for now; HB 246 is in House Appropriations.

Local authority

Bills threaten authority to prohibit signs in rights of way

SB 64 (Lucas) and **HB 553** (D. Marshall) end the authority of local governments to prohibit most temporary signs in the streets, medians and other public rights of way.

Under the bills, if a sign is a political campaign sign, or a sign promoting a special event with the date

of the event on the sign, or any sign that is only in the street for three days per week, cities, counties and towns would lose all authority to prohibit them.

Further, if a government employee or citizen removes such a sign, the person would be personally responsible to the sign's owner for its market value. As a result, if a city crew is mowing or removing snow, the crew would have to make sure to not disturb the signs, or face liability for their cost.

Landlord liability bill could help quiet neighborhoods

Passage of **HB 232** (Dance) could help local governments clean up neighborhoods by requiring landlords to deal with problem tenants. Under the bill, if the tenants cause problems to the block by their actions at the rental property – such as being drunk in public, committing public indecency or violating a noise ordinance – and these problems occur three times in a year, the locality may force the landlord to deal with it or face a civil penalty.

The bill was written by VML as an aid to the Virginia Housing Commission. The Commission endorsed the bill, which has been worked out with the realtors and other private groups.

Bill would delay collection of cash proffers

The Homebuilders Association of Virginia is promoting a bill to delay the collection of cash proffers by local governments from the time the building permit is issued to the time the certificate of occupancy is to be issued.

HB 374 (Cosgrove) applies only when the cash proffer is based on a per-unit basis. Therefore, if a cash proffer is due for an entire project or due when the 50th house is completed (as an example), the time the payment is due would be unchanged. The provision would end in 2014. It is aimed to give the construction industry some breathing room in these tough economic times.

In general, the bill may be workable, but there are some technical problems with it. If the developer runs into financial problems between the time he obtains the building permit and the time the certificate of occupancy is due, how would the locality be paid?

Other bills ...

Constitutionality of local ordinances - **SB 521 (Norment)**

Summary: Permits a locality to obtain a determination by the circuit court as to the constitutionality of a local ordinance that has been held to be unconstitutional in a court not of record. Currently, only the Commonwealth is able to obtain such a determination.

Action: This bill in the civil subcommittee of Senate Courts.

Public prayer regulation restrictions proposed - **SB 56 (Martin)**

Summary: Specifies that governments have no authority to regulate the religious content of prayers when an individual is asked to provide the prayer (invocation, etc.) at a public event sanctioned by the government. The problem for local governments is that the bill would not (and could not) prevent local governments from being sued.

Action: The bill is in the Senate General Laws and Technology Committee.

Cooperative procurement - **HB 426 (Griffith)**

Summary: Prohibits a local public body from using another local public body's contract for construction if the project exceeds \$200,000 and if the local governments are more than 75 miles apart. This is the compromise bill that VML and VACo worked out last session.

Action: HB 426 was assigned to the House General Laws Committee.

Personnel

Procedural Guarantee Act expansion bills introduced

SB 68 (McEachin) strengthens the protections afforded to firefighters and emergency medical technicians during internal investigations, questioning and disciplinary hearings. The bill allows the affected employees to have a witness of their choice present during an interrogation, and requires that officers have a 24-hour notice to an officer prior to questioning. This bill in the civil subcommittee of the Senate Courts Committee.

Please contact your members of Senate Courts in

opposition to the bill. Some talking points are:

- Procedures are already currently in place to protect firefighters and EMTs from arbitrary and unreasonable disciplinary action, and from abusive administrative investigations.
- The bill interferes with the efficient operation of public safety agencies.

Senate Courts members appointed to date are: **Marsh (Chairman), Saslaw, Quayle, Norment, Howell, Lucas, Edwards, Reynolds, Puller, Obenshain, McDougle, Deeds, Hurt.** Additional appointments should be forthcoming. Sen. John Edwards is chair of the civil subcommittee, but the subcommittee's membership has not been announced.

HB 272 (Englin) and **SB 287 (Deeds)** bring deputy sheriffs and other employees I in the sheriffs' departments under the coverage of the Law-Enforcement Officers Procedural Guarantee Act. The House bill is in the General Laws Committee; the Senate bill is in the civil subcommittee of Senate Courts.

Other bills ...

Discrimination by public employers - **HB 455 (Herring)**

Summary: Prohibits public bodies from taking adverse employment actions based on genetic testing or genetic characteristics. Such actions are currently prohibited if taken by private employers.

Action: The bill was sent to the House General Laws Committee.

Optional statewide health insurance - **HB 693 (Miller, J.)**

Summary: Requires the state to develop a statewide optional health insurance plan for employees of local governments and school divisions. Every local government or school division would be required to either participate in the program, or take advantage of a one-time, irrevocable opt out provision. School divisions would have to make the decision in conjunction with the local governing body. The bill requires the Department of Human Resource Management to develop the policies required by the bill.

Action: The bill was sent to the House General Laws Committee.

Public Safety

Bills would strengthen local noise ordinance enforcement

Several bills have been filed to allow local governments to impose a civil penalty for violation of a noise ordinance.

Last year the Virginia Supreme Court opined that a criminal noise ordinance that prohibits “unreasonably loud noises” or has similar language, violates the constitution. By moving the provision to a civil penalty, that constitutional problem is removed. The locality would still be able to use the provision to quiet noisy folks, so the ultimate goal of a noise ordinance would be preserved.

The bills are [HB 159](#), [SB 120](#) and [SB 246](#).

Other bills:

Concealed handgun permit; documentation and information provided by applicant - [HB 26](#) (Wright)

Summary: Clarifies that the clerk of court accepting a concealed handgun permit application shall not require the applicant to provide any documentation or information not required by § 18.2-308 or by the application form prescribed by the Department of State Police.

Action: Referred to [Committee on Militia, Police and Public Safety](#)

Handguns; repeals one-gun-a-month limitation - [HB 49](#) (Lingamfelter)

Summary: Repeals the prohibition against purchasing more than one handgun in a 30-day period.

Action: The bill was assigned to the [Committee on Militia, Police and Public Safety](#).

Firearms; possession with intent to use on school property Class 1 misdemeanor - [HB 72](#) (Carrico)

Summary: Changes the penalty for possession of a firearm on school property from a Class 6 felony to a Class 1 misdemeanor, the same penalty that applies to the possession of other weapons on school property. However, if a person possesses a firearm on school property with the intent to use the firearm unlawfully or to threaten or endanger another person, or if a

person actually uses the firearm in an unlawful manner or threatens or endangers another person, such person is guilty of a Class 6 felony. If a person unlawfully discharges a firearm upon school property, upon other property being used exclusively for school-sponsored functions or extracurricular activities, or upon a school bus, such person shall be sentenced to a mandatory minimum term of imprisonment of five years.

Action: Bill was assigned to the [Committee for Courts of Justice](#)

Retirement/benefits

Bill would add E-911 surcharge for Line of Duty benefits

[SB 279](#) (Quayle) would add a surcharge of 18 cents for E-911 service, and puts the proceeds in a Line of Duty Death and Health Benefits Fund.

The fund would be used to pay the death and health insurance premium benefits to individuals covered by the Line of Duty Act.

The bill was assigned to the Senate Courts Committee.

Transportation

Committee OKs bill authorizing prohibition of soliciting contributions along streets

The Senate Transportation Committee unanimously passed a bill that would give local governments more authority to limit or prohibit solicitation of contributions and sale of merchandise along public streets and highways.

[SB 35](#) (Lucas) would allow any county, city or town to adopt ordinances prohibiting or regulating distribution of handbills, solicitation of contributions, and sale of merchandise on highways within their boundaries. Under current state law only a handful of localities have the authority to regulate such activities.

VML supports the bill and spoke in favor of its passage on Thursday. [VML's 2010 Legislative Program](#) urges the General Assembly to authorize all localities to prohibit or regulate the sale of goods, solicitation of donations or the offering of services

by pedestrians to motor vehicle occupants within the public streets and rights of way in order to reduce associated traffic safety hazards.

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Miscellaneous

Bill targets illegal workers

SB 225 (Barker) would require all public contractors and their subcontractors to register in a federal Electronic Work Verification Program or similar program to determine that their employees and independent contractors are legally eligible for employment in the U.S. Contractors who do not register and participate in the registration program are ineligible for prequalification.

This bill was assigned to the Senate General Laws Committee.

Other bills ...

Mandate suspension proposed - **HB 385** (Dance)

Summary: Current statutes allow local governments to apply for a suspension of mandates, and allow the governor to grant that suspension. The bill amends the current law by requiring (rather than allowing) the governor to grant the suspension.

Action: HB 385 was assigned to the House General Laws Committee.

Follow VML on Twitter, Facebook

The VML staff is now on social media! If you just can't wait to find out what is happening on the floor of the 2010 General Assembly, you can get real-time updates by following us on Twitter or Facebook.

To find us on Facebook, search for the "Virginia Municipal League" business (fan) page and "fan" us. All of our staff's updates will be visible on this page. You will first need a Facebook account, which is free. Go to www.facebook.com and create a page by filling in the brief form on the front of the page. Once you have a confirmed account, you can become our fan.

If you have a free Twitter account (www.Twitter.com), you can get our updates by following Dave Parsons, Director of Communications, at www.Twitter.com/daveparsonsvml. Once you follow Dave, just look under "Lists" and click on [@ManuelTimbreza/vml](https://twitter.com/ManuelTimbreza/vml). When it opens, click "follow this list." All of our staff tweets will then be visible to you when you open the list from your page. If you choose, you can also individually follow specific VML staffers.

More ...

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

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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 >](#)

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[Legislative Meeting Schedule >](#)

Up-to-date listing of legislative committee meetings.



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