

2020

Virginia Municipal League

Legislative Summary

*This summary was produced prior to all
the bills listed herein being signed and prior
to the 2020 reconvened session.*



2020 VML Legislative Summary

The 2020 session ends ... but who doesn't expect changes?

At its start, the 2020 General Assembly's members were focused on how to make, or resist, the changes promised in the results of the 2019 elections. For the first time in as long as anyone could remember far-reaching bills on topics such as the environment, gun control, transportation, the Equal Rights Amendment, elections, etc. etc. were in play. And significant legislation that would have languished or died in committees in previous years, found their way to the Governor's desk in 2020.

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Of course, all that seems like a thousand years ago now.

With the advent of the COVID-19 pandemic the actions taken by the 2020 General Assembly should be re-evaluated using a very different set of criteria. Specifically, what will the coronavirus pandemic mean for the health and well-being of people and the strength of the economy and for the capacity of state and local budgets to meet the needs of all Virginians? The answers to these questions will unfold in a short timeframe and are certain to dominate the reconvened session in April or perhaps even a special session later in the year.

At the request of Governor Northam and Secretary Layne, VML Executive Director Michelle Gowdy sent a letter to Director Erik Johnston of the Department of Housing and Community Development. The letter discusses two requests made of Governor Northam and Secretary Layne as a result of the unfolding financial impact of the COVID-19 pandemic:

1. Do not adjust state funding formulae to reduce the state's funding liabilities for state-mandated programs like public education.
2. Delay for at least one-year unfunded and underfunded state mandates enacted in the 2020 General Assembly Session and suspend regulations that incur costs on local government without providing meaningful benefits.

[A copy of the letter is posted here >](#)

Items marked with an asterisk (*) indicate unfunded/underfunded mandates that VML has requested be delayed for a year.

So, with the understanding that key components of the 2020 legislation will hopefully be revisited in the reconvened session and next January, here are summaries of bills of the greatest consequence to VML members.

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Taxation and Finance

Peer-to-Peer Rentals: [SB735](#) (Newman) establishes insurance, taxation, recordkeeping, disclosure, and safety recall requirements for peer-to-peer vehicle sharing platforms defined in the bill.

But that one-sentence description does not begin to tell the story. The General Assembly grappled with five other peer-to-peer rental bills ([SB749](#), [SB750](#), [HB891](#), [HB892](#), and [HB1539](#)) and all of them were either defeated outright or folded into SB735. The biggest sticking point was taxation with the vehicle sharing platforms pushing for a 4 percent tax rate instead of the current 10 percent tax rate. Under current law, 4 percent of the current rate goes to localities with another 4 percent dedicated to the Rail Enhancement Fund and Washington Metro's capital program. VML opposed the 60% tax rate reduction proposed by the peer-to-peer advocates. The compromise embedded in SB735 calls for a 6.5 percent tax rate in FY21 increasing to a permanent rate of 7 percent in FY22. The "discounted" tax rate would only apply to clients of the sharing platforms who have placed ten or fewer vehicles on the platforms. The 10 percent tax rate would remain in place for customers who rent from businesses with more than ten vehicles on the sharing platforms.

Plastic Bags: [HB 534](#) (Carr) / [SB 11](#) (Ebbin) authorizes any county or city, beginning no earlier than January 1, 2021, to impose a tax of five cents per bag on disposable plastic bags provided to consumers by certain retailers, with some bags being exempt from the tax. The bill allows every retailer that collects the tax to retain a portion of the five-cent tax and provides that the revenue accruing to the county or city shall be used for specific purposes including environmental cleanup and the provision of reusable bags. The measure authorizes the Tax Commissioner to administer the tax.

The bills passed by the General Assembly are vastly different from the measures as first introduced. As originally proposed, the likelihood that the revenues would ever return to local coffers to address environmental issues was near nil. After much discussion with a varied group of stakeholders including environmentalists, retailers and plastic bag manufacturers, the compromise clearly identifies the tax as local. The final bill incorporates [SB26](#) and [SB198](#). A House bill ([HB1151](#)) was defeated in the Senate.

Collection of town taxes by county: [HB1534](#) (Samirah) / [SB649](#) (Boysko) authorizes the board of supervisors of any county that has adopted the urban county executive form of government (i.e. Fairfax County) to enter into agreements with towns located partially or wholly within such county for the collection and enforcement of real or personal property taxes by the county official responsible for assessment or collection of taxes. The authority granted to such counties is similar in authority granted to Loudoun County under existing law.

Comparative report of local government revenues and expenditures: [HB406](#) (Subramanyam) provides an additional two-weeks for localities to finish and submit their financials to the state Auditor of Public Accounts. The bill specifically changes the annual deadline for local submittal of the comparative report of local government revenues and expenditures to the Auditor of Public Accounts from November 30 to December 15 and the annual deadline for the statement of the Auditor of Public Accounts showing in detail the total and per capita revenues and expenditures of all localities for the preceding fiscal year from January 31 to February 15.

Annual local audit; enforcement; civil penalty: [HB760](#) (Aird) provides an enforcement mechanism if a locality that is late in completing its required audit fails to give proper notification of the delayed audit. Such enforcement may include a writ of mandamus and a civil penalty of between \$500 and \$2,000.

Personal property tax exemption: [HJR103](#) (Helmer) provides that one motor vehicle of a veteran who has a 100 percent service-connected, permanent, and total disability shall be exempt from state and local taxes. The proposed state constitutional amendment stipulates that only automobiles and pickup trucks qualify for the exemption. Additionally, the exemption is only applicable on the date the motor vehicle is acquired or the effective date of the amendment, whichever is later, and is not applicable prior to the effective date of the amendment.

The General Assembly's action with HJR103 triggers the legislature's muscle memory to require localities to pay for political issues and policies unrelated to local responsibilities and obligations. Because an identically worded resolution passed the 2019 Session, the proposed amendment is eligible to be placed on this November's ballot. [HB1268](#) (Helmer) is the mechanism to put in place the referendum.

Local tax authority: [HB785](#) (Watts) / [SB588](#) (Hanger) grant counties the same taxing powers now authorized for cities and towns, including admission taxes, meals taxes, transient occupancy taxes, and cigarette taxes. Under current law, when compared to cities and towns, counties are not authorized to impose certain taxes and are limited in the rates that they may impose for other taxes. The provisions of this legislation related to cigarette taxes would become effective July 1, 2021.

The other provisions of this bill would become effective July 1, 2020. Virginia's cities and towns will lose future tax flexibility concerning cigarette taxes because of caps placed on rates exceeding 2-cents per cigarette, meaning local governments risk becoming even more dependent upon real and personal property taxes.

Human resource management

***Collective bargaining:** [HB582](#) (Guzman) / [SB939](#) (Saslaw) permit localities to adopt local ordinances authorizing them to (i) recognize any labor union or other employee association as a bargaining agent of any public officers or employees to include public school employees, except for Constitutional Officers and their employees and (ii) collectively bargain or enter into any collective bargaining contract with any such union or association or its agents with respect to any matter related to them or their employment. Employee strikes are prohibited.

The legislation took a long and winding road to arrive at a local option. Originally, HB582 allowed for all employees to collectively bargain in any locality and set up a regulatory scheme that the locality would have to abide by.

***Minimum wage:** The final version of [SB7](#) (currently awaiting the Governor's signature) is a more gradual increase to the minimum wage than originally proposed. This bill states that prior to January 1, 2021 every employer shall pay the federal minimum wage. Then:

- January 1, 2021 until January 1, 2022 the rate shall be \$9.50/hr.
- January 1, 2022 to January 1, 2023 the rate shall be \$11.00/hr.
- January 1, 2023 to January 1, 2025 the rate shall be \$12.00/hr.
- January 1, 2025 to January 1, 2026 the rate shall be \$13.50/hr.
- January 1, 2026 to January 1, 2027 the rate shall be \$15.00/hr.

After January 1, 2027 the minimum wage will be the adjusted state hourly minimum wage. In all cases, the employer shall pay the federal minimum wage if it is higher than what is required by the legislation at that time.

To determine the adjusted state hourly minimum wage, the Commissioner of Labor and Industry will consider many factors including the U.S. average consumer price index and the urban consumer price index or successor indexes.

As a final measure, the bill states that prior to July 1 of 2024, the bill must be reenacted (passed again) by the General Assembly. Otherwise, the Commissioner of Labor and Industry shall establish the adjusted state hourly minimum wage by October 1, 2024 and annually thereafter.

In addition, beginning in January of 2022, the Department of Housing and Community Development along with the Virginia Economic Development Partnership and Virginia Employment Commission will look at the feasibility and potential impact of a regional minimum wage. Factors to be considered include:

- Potential impact on employers and any fringe benefits offered to employees.
- Potential impact on workers with a focus on income inequality and the equity.
- Fairness of the exemption for farm laborers or farm employees along with the economic benefits or impacts.

A final report is due no later than December 23, 2023.

***Workers' compensation; PTSD for fire-fighters and law enforcement:** [HB438](#) (Heretick) and [SB561](#) (Vogel), which are the same, state that a board-certified psychiatrist or psychologist with experience in PTSD shall make the diagnosis, there must have been a qualifying event and that event must be a substantial factor in the PTSD. A qualifying event is an incident or exposure occurring in the line of duty on or after July 1, 2020:

1. Resulting in serious bodily injury or death to any person or persons
2. Involving a minor who has been injured, killed, abused, or exploited
3. Involving an immediate threat to life of the claimant or another individual
4. Involving mass casualties
5. Responding to crime scenes for investigation

***Workers' compensation; presumption for firefighters and law enforcement:** [HB783](#) (Askew) and [SB9](#) (Saslaw) require 5 years of continuous service, would not require proof of exposure to a toxic substance, and add testicular, colon and brain cancer to the list of cancers presumed to be occupational diseases.

More bills affecting employees:

- **“Ban the Box”** – [HB757](#) (Aird) prohibits localities from inquiring about arrests, charges or convictions on employment applications unless the position is “sensitive” as determined by the locality.
- **Insurance benefits** – [HB1385](#) (Leftwich) / [SB349](#) (Lucas) allow localities to extend insurance benefits to retired employees of boards, commissions, agencies, or authorities that are political subdivisions of the Commonwealth and work in close cooperation with such locality.

Grievance procedure bill dies

The perennial grievance procedure bill was back this year with a new patron [HB662](#) (Mullin) would have incorporated the ability of a final decision in a local grievance decision to be appealed to the circuit court; fortunately, the bill died in committee.

Freedom of Information Act

Continued meetings: [SB941](#) (Locke) allows any local government board, commission or authority to adopt a resolution which fixes the day to which a regular meeting may be continued if weather or hazardous conditions dictate moving the day of the regular meeting. This bill goes on to state that all hearing and other matters previously advertised will be conducted at the continuing meeting without additional advertising.

VML staff comment: “Yeah!”

Officer training and reporting requirements: [SB138](#) (Stuart) clarifies that regional public bodies need to designate a FOIA officer and place contact information on the website. The FOIA officer also must be trained once every 2 years. Both training and contact information must also be provided to the Freedom of Information Advisory Council.

Constitutional officer training requirements: [SB139](#) (Stuart) states that “local elected officials” shall include constitutional officers for the purposes of FOIA and requires that training for local officials shall be in-person or online.

Cost estimates; response time: [SB153](#) (Stuart) codifies the current understanding of FOIA for the time period being tolled while a cost estimate is being calculated. If a requester asks for a cost estimate the time for the locality to respond is tolled (meaning that the time limit is suspended) until the estimate is provided. Also, if a cost estimate exceeds \$200 an advance may be required.

Library records: [HB313](#) (Gooditis) / [SB259](#) (Bell) clarify that information contained in library records that can be used to identify any library patron under 18 years of age who has borrowed or accessed material or resources from a library as well as the material or resources such patron borrowed or accessed is exempt from disclosure under the Virginia Freedom of Information Act.

Exemption for HUD, VHDA applications: [HB722](#) (Reid) provides a Freedom of Information Act exemption for financial and proprietary records submitted with a loan application to a locality for the preservation or construction of affordable housing that is related to a U.S. Department of Housing and Urban Development or Virginia Housing Development Authority application until such time as the records are released by one of those two entities.

FOIA council to study number of meetings a member may miss

Electronic meetings; serious medical condition of immediate family member: [HB321](#) (Levine) allows for a member of a public body to miss a meeting for a serious medical condition of an immediate family member in addition to the reasons already allowed. Further, the legislation states that a member can miss two meetings or 10% of meetings (whichever is greater) for these reasons.

VML supported this bill, but it was ultimately recommended that the FOIA Council study the issue.

Transportation

Omnibus transportation bill: [HB1414](#) (Filler-Corn) / [SB890](#) (Saslaw) adopt numerous structural changes to the transportation funding system in the Commonwealth. Under the legislation, most transportation revenues are directed to a new Commonwealth Transportation Fund and the existing Highway Maintenance and Operating Fund. Funds are then disbursed, based on new funding formulas, to sub-funds established to meet the varying transportation needs of different modes of transportation.

The existing gas tax based on a percentage of the wholesale price of gasoline and diesel fuel is converted to a cents-per-gallon tax. The gasoline tax will be raised a nickel a year for two years (to a total rate of \$0.262 per gallon) and then indexed to inflation each year after. The regional gas tax will be converted to a rate of \$0.076 per gallon of gasoline and the regional fuels tax will be levied in all regions that do not currently have a regional motor fuels tax. This revenue will be directed to the regional construction district grant program in SMART SCALE.

State registration fees for motor vehicles will be lowered by \$10, while allowing local governments to levy registration fees at the same rate as was levied by the State on 1/1/2020. The Department of Motor Vehicles will also implement a Highway Use Fee for alternative fuel and fuel-efficient vehicles. Anyone who has a vehicle subject to this new fee may instead choose to enroll in a mileage-based user fee program to be developed by the Department. The legislation also eliminates the \$5 in-person service fee for vehicle registrations at the Department of Motor Vehicles

In Northern Virginia, the regional transportation improvement fee used to support WMATA is lowered to \$0.10 per \$100 for the recordation of conveyance of deeds. A new regional congestion fee is imposed at a rate of \$0.15 per \$100 for the recordation of conveyance of a deed. The regional transient occupancy tax is raised from \$2 to \$3.

The bill authorizes the use of transportation bonds to complete the final section of Corridor Q of the Appalachian Development Highway System and authorizes a bond issuance for improvements in the Interstate 81 and construction of passenger rail facilities.

The bill establishes a new Virginia Passenger Rail Authority, an independent authority to own, construct, acquire right of way, and contract out the operation of passenger rail. The authority will be governed by a 15-member board of gubernatorial appointees. The authority will have the power to issue bonds using toll revenues; specifically, the authority is authorized to issue bonds backed by I-66 toll revenues for the construction of a new passenger rail bridge connecting Virginia with the District of Columbia. The bill also creates numerous new transportation safety programs, including an Interstate Operations and Enhancement Program, a Statewide Special Structures Program, and a Transit Incentive Program.

Other transportation bills:

Local regulation of certain transportation companies: [HB465](#) (Keam) extends from January 1, 2020, to October 1, 2020, the prohibition on offering motorized skateboards or scooters, bicycles, or electric power-assisted bicycles for hire in any locality that has not enacted any licensing ordinance, regulation, or other action regulating such business. The bill clarifies that localities are authorized to create or amend such ordinances, regulations, or actions even after any such business is operating in the locality and exercise authority otherwise authorized by law. The bill contains an emergency clause.

Electric vehicle charging stations: [HB511](#) (Bulova) authorizes any agency of state government to locate and operate a retail fee-based electric vehicle charging station on property the agency controls. The bill exempts state agencies from being considered a public utility solely because of the sale of electric vehicle charging service or the ownership or operation of an electric vehicle charging station and further exempts such service from constituting the retail sale of electricity. Currently state-operated charging stations may be operated by the Department of Conservation and Recreation, Department of General Services, Department of Motor Vehicles, Department of Transportation, and public institutions of higher education.

Electric power-assisted bicycles: [HB543](#) (Carr) / [SB871](#) (Marsden) amend the definition of “electric power-assisted bicycle” to include three classes of bicycles, based upon the type of motor and the maximum miles per hour that the motor is capable of propelling the bicycle. The bill also provides that electric power-assisted bicycles and operators are afforded the same rights and privileges as bicycles and operators and limits local and state regulation of the operation of these electric power-assisted bicycles to certain bicycle paths, shared-use paths, and trails. The bill requires manufacturers and distributors of electric power-assisted bicycles to include (i) on each electric power-assisted bicycle, a label indicating certain technical specifications and (ii) on each class three electric power-assisted bicycle, a miles-per-hour speedometer.

Holding personal communications devices while driving: [HB874](#) (Bourne) / [SB160](#) (Surovell) prohibit any person from holding a handheld personal communications device while driving a motor vehicle. Current law prohibits (i) the reading

of any email or text message and manually entering letters or text as a means of communicating and (ii) holding a personal communications device while driving in a work zone. The bill expands the exemptions to include handheld personal communications devices that are being held and used (a) as an amateur radio or a citizens' band radio or (b) for official Department of Transportation or traffic incident management services. The bill has a delayed effective date of January 1, 2021.

Driver privilege cards: [HB1211](#) (Tran) / [SB34](#) (Surrovell) authorize the Department of Motor Vehicles to issue driver privilege cards to individuals legally present in Virginia. To be eligible for a privilege card an individual 1) must have reported income from Virginia sources in the past 12 months or have been claimed as a dependent on state income taxes and 2) cannot be in violation of the insurance requirements for motor vehicles. Driver privilege cards will not be REAL ID compliant and will state they are not valid forms of identification for voting or public benefits.

High-occupancy toll lanes on portions of Interstate 64: [HB1438](#) (Jones) authorizes the Hampton Roads Transportation Accountability Commission to impose and collect tolls in high-occupancy toll lanes on certain portions of Interstate 64. The area of Interstate 64 in which the tolls may be imposed is the vicinity of the interchange of Interstate 64 and Jefferson Avenue to the interchange of Interstate 64, Interstate 264, and Interstate 664. The bill directs the Commission to enter into an agreement with the Commonwealth Transportation Board and the Department of Transportation regarding the standards for operating the facility and use of toll proceeds.

Photo speed monitoring devices: [HB1442](#) (Jones) authorizes state and local law-enforcement agencies to operate photo speed monitoring devices in or around school crossing zones and highway work zones to enforce speeding violations. The bill will provide local and state police with a new tool for enforcing vehicle speeds in areas where vulnerable road users are present.

Compensation for certain construction and improvement of highways: [HB1518](#) (McQuinn) allows the Department of Transportation to pay a county up-front for eligible expenses related to certain transportation projects administered by the county, instead of being reimbursed after completion of the project.

Creation of the Central Virginia Transportation Authority: [HB1541](#) (McQuinn) creates the Central Virginia Transportation Authority, made up of the comprising the counties and cities located in Planning District 15. The authority will administer transportation funding generated through the imposition of an additional regional 0.7 percent sales and use tax and a wholesale gas tax of 7.6 cents per gallon of gasoline and 7.7 cents per gallon of diesel fuel. The gas tax rates would be indexed for inflation. The bill sets out the voting rights of each jurisdiction comprising the authority, including the town of Ashland.

Yielding to pedestrians: [HB1705](#) (Kory) requires that vehicles must yield to pedestrians by stopping and that vehicles may not overtake any vehicles that are yielding to pedestrians.

Hampton Roads Regional Transit Program: [HB1726](#) (Askew) / [SB1038](#) (Lucas) raise additional revenues for the Hampton Roads Transportation Fund by levying a regional grantors tax and a regional transient occupancy tax. The bill provides that the new revenues generated shall be used operate a regional system of inter-jurisdictional, high-frequency bus service in the region.

Electric personal delivery devices: [SB758](#) (Marsden) aka the "Robot Bill" makes several changes related to electric personal delivery devices, including changing the term used to refer to such devices to "personal delivery devices" and changing the weight limit of such devices from 50 to 500 pounds at speeds up to 10 mph. It also eliminates the requirement that devices must yield to pedestrians. The bill allows localities to promulgate regulations for their safe operation on locality owned roadways and provides the Commonwealth Transportation Board with authority to regulate their operation on state owned roads. It requires a locality to allow a personal delivery device to operate on the side of a roadway with a speed limit of 25 miles per hour or less if a sidewalk is not available. Finally, it allows personal delivery devices to deliver hazardous materials and ammunition.

Billboards: [SB968](#) (Marsden) allows the owner of lawfully erected billboards that are nonconforming structures to be relocated in the event the nonconforming billboard is located on property that has been acquired due to road widening, construction or reconstruction. This bill also allows the billboard height and angle to be adjusted to maintain the visibility of the billboard.

Public safety and courts

***New data requirements for local enforcement:** [HB1250](#) (Torian) creates definitions for bias-based profiling and prohibits such profiling by local or state law enforcement officers in the course of their duties. It creates new requirements for data collection by local and state law enforcement for any motor vehicle or investigatory stop as well as the number of complaints received about alleged use of excessive force. That data will be provided to the Virginia State Police for analysis of stops and investigatory actions by law enforcement and records of complaints of alleged excessive force. The data to be collected by law enforcement officers at every motor vehicle or investigatory stop are as follows (based on the officer's observation or information provided by the driver):

- the race, ethnicity, age, and gender of the person stopped;
- the reason for the stop;
- the location of the stop;
- whether a warning, written citation, or summons was issued or whether any persons were arrested;
- if a warning, written citation, or summons was issued or an arrest was made, the warning provided, violation charged, or crime charged; and
- whether the vehicle or any person was searched.

The Department of Criminal Justice Services will issue annual reports of the data/findings to the Governor, General Assembly, Attorney General and all attorneys for the Commonwealth.

Supervision of locally-funded administrative employees for circuit court judges: [HB1725](#) (Campbell, J) clarifies that an administrative employee paid for by a local government to assist with the administration of a circuit court judge's office shall be solely supervised and directed by the judge and not by the locality that provides the funding. The bill was amended to restrict its provisions to the 27th, 28th, 29th, and 30th circuits. It was also clarified to state that it does not affect the authority of the clerk of the circuit court or their ability to assign their deputies to assist with judicial duties.

Local authority for weapons in local government buildings/grounds/facilities. [HB421 \(Price\)](#) / [SB35](#) (Surovell) authorizes any locality by ordinance to prohibit the possession or carrying of firearms, ammunition/components or any combination in:

- any building, or part of a building, owned or used by such locality , or by any authority or local government entity created or controlled by the locality for governmental purposes;
- in any public park, authority or local government entity created or controlled by the locality;
- in any recreation or community center facility operated by the locality, or by any authority or local government entity created or controlled by the locality;
- in any public street, road, alley, sidewalk or public right-of-way or any other place that is open to the public and is being used by or is adjacent to a permitted event or an event that would otherwise require a permit.

The locality would have to post signs regarding the restrictions in all these places.

The bill also repeals current Code restrictions on the authority of localities and state governmental entities to bring lawsuits against certain firearms manufacturers. Finally, the bill provides that if a locality receives a firearm pursuant to a gun buy-back program, that firearm shall be destroyed by the locality unless the person surrendering it requests in writing that the firearm be sold. The current default in the Code is to sell a gun received by the locality unless the person surrendering it requests that it be destroyed.

Authority for Capitol Police to assist localities with canine detector services: [HB 1626](#) (Bourne) / [SB996](#) (Edwards) give a Capitol Police officer who is the handler of a detector canine concurrent jurisdiction with law-enforcement officers of another jurisdiction that request assistance in the detection of firearms, ammunition, explosives, propellants, or incendiaries.

Active shooters: [HB670](#) (M. Cole) / [SB333](#) (Stuart) require the Department of Housing and Community Development to convene stakeholders representing entities that enforce the Uniform Statewide Building Code and the Virginia Statewide Fire Prevention Code and other relevant groups to assist in the provision of safety and security measures for the Commonwealth's public buildings for active-shooter or hostile threats while maintaining compliance with accessibility requirements under the Americans with Disabilities Act.

PSAP training: [HB727](#) (Hope) / [SB720](#) (McClellan) require each Public Safety Answering Point (PSAP) to provide training and equipment for dispatchers in high-quality telecommunicator cardiopulmonary resuscitation instruction on or before January 1, 2022. The Office of Emergency Services shall adopt training standards by July 1, 2021.

Donation by locality of in-kind resources to certain volunteer or nonprofit organizations: [HB343](#) (Bell) / [SB465](#) (Reeves) deal with in-kind resources for any association or other organization furnishing voluntary firefighting services or a nonprofit or volunteer emergency medical services agency. These can include contract management services for capital projects, assistance in preparing requests for information, bids, or proposals and budgeting services.

Games of Skill: [HB881](#) (Bulova) / [SB971](#) (Howell) make games of skills illegal by including the playing or offering for play of any skill game in the definition of “illegal gambling.” The bill also includes skill games within the definition of “gambling devices.”

Carried over public safety and courts bills

These bills, which were carried over to the 2021 General Assembly session, would have fiscal impacts on local governments if passed.

Supplementing compensation of public defender: [HB869](#) (Bourne) would require any local governing body providing discretionary salary supplements to a Commonwealth’s Attorney office to make commensurate and proportionate payments to the public defender’s offices.

VML worked with a coalition to stop this bill; the patron has vowed to bring it back if the funding situation for public defender offices is not addressed in the coming year. To be clear, public defender offices are 100 percent a state function and their employees are state employees.

Drug Treatment Court Act: [SB819](#) (Morrissey) would allow a locality to move forward with establishing a drug court even if no state funding is available and further provides that a drug treatment court shall be available to every defendant irrespective of the jurisdiction.

Some local governments currently work as a region (e.g., Peninsula) to allow access to a drug court for residents of that region; there would be significant logistical and cost issues to consider in other areas with greater distances between drug treatment courts.

Juvenile community correctional centers and facilities: [SB1033](#) (Locke) would impose new restrictions and requirements for Department of Juvenile Justice (DJJ) facility size and location.

These requirements would increase DJJ operating costs which would potentially affect funding for the statewide network of community-based programs and contracts with local and regional juvenile detention facilities. Staff of the Senate Finance & Appropriations Committee (specifically, the Public Safety and Capital Outlay staff) will examine the issues in the bill this year.

Land use

Flood plain ordinances: [HB998](#) (Hayes) allows localities by ordinance to regulate flood plains in a manner consistent with state or federal management and requirements outside of a zoning ordinance.

Subdivision plats; certain approved final plats shall remain valid indefinitely: [HB929](#) (Coyner) states that an approved final subdivision plat that has been recorded and dedicates real property to the local jurisdiction or public body and has been accepted will remain valid for an indefinite period of time.

Zoning administrators; notice of decisions and determinations: [SB589](#) (Hanger) allows a zoning ordinance to include a provision which requires the zoning administrator to provide notice to adjacent properties when the zoning administrator determines that a use could impair the ability of an adjacent property owner to satisfy the minimum storage capacity and yield requirements for a residential drinking well.

Development approvals: [SB647](#) (Boysko) allows a locality to include in its zoning ordinance the option of allowing a development of a specific property to transfer jurisdiction due to annexation, a boundary adjustment or other cause and to continue to operate under the same approvals, terms, provisions and condition for an orderly transition.

Civil penalty for numbering on building ordinances: [HB106](#) (Cole, M.) provides for a civil penalty when enforcing visible numbering on a building ordinances. Currently it is only a criminal penalty.

Residential derelict buildings and civil penalties: [HB150](#) (Samirah) provides that if a locality has a real estate tax abatement program, then a civil penalty can be assessed on a residential property after notice of the derelict building is provided in writing to the owner.

BZA member, officer of elections: [HB370](#) (Bell) and [SB292](#) (Deeds) clarify that a Board of Zoning Appeals member may also be an officer of elections.

BZA; time limit: [HB505](#) (Knight) states that when the court allows a writ of certiorari to review a board of zoning appeals decision and issues the allowance of a writ of certiorari, the board of zoning appeals shall have 21 days to respond.

Installation of certain facilities by developer; reimbursement: [SB360](#) (Cosgrove) states that a locality may adopt an ordinance which allows a developer to build water and sewer facilities that are larger than needed for their project and the locality may reimburse for the cost of the extra capacity.

Vegetation removal: [HB284](#) (Cole, J.) and [SB225](#) (Stuart) authorize a locality to create an ordinance requiring an owner to remove vegetation that obstructs a driver's line of sight if the property is within 5 feet of any public right-of-way; if the owner fails to take action after notice, the locality can remove the vegetation.

Vegetation removal; 23rd PDC: [HB549](#) (Ward) and [SB340](#) (Locke) grant any locality in the 23rd Planning District the authority to include cutting overgrown shrubs, trees and other such vegetation in an ordinance requiring landowners to remove such overgrown vegetation.

Comprehensive plans; transit: [HB585](#) (Guzman) stipulates that any city with a population greater than 20,000 and counties over 100,000 in population shall consider incorporating transit-oriented development into its comprehensive plan.

Comprehensive plan; adoption or disapproval by governing body: [HB726](#) (Reid) and [SB746](#) (Bell) extend the time by which a governing body is required to approve or disapprove a locality-initiated comprehensive plan amendment from 90 days to 150 days of the local planning commission's recommending resolution if the amendment is initiated by the locality and is for more than 25 parcels.

Land use bill that died

Climate change: [HB672](#) (Willett) would have required localities to look at climate change when creating or updating their comprehensive plan, zoning ordinance and any regional strategic plan.

Solar energy

Solar energy projects; national standards: [HB656](#) (Heretick) / [SB875](#) (Marsden) allow a locality to add to its zoning ordinance a provision that incorporates generally accepted national standards for the use of solar panels and battery technology.

Special exception for solar photovoltaic projects: [HB655](#) (Heretick) / [SB870](#) (Marsden) allow for special exceptions for solar projects. The locality may grant an exception that includes dedication of real property of substantial value or substantial cash payments for or construction of substantial public improvements. The need for such exceptions does not have to be generated solely by the granting of the permit, only reasonably related to the project.

Comprehensive plan: [HB657](#) (Heretick) allows a locality the ability to waive the requirement that solar facilities be reviewed for substantial accord with the comprehensive plan.

Local tax exemption; solar energy equipment: [HB1434](#) changes the local property tax exemption for solar energy projects from an 80 percent exemption for the life of the project to a step down scale of an 80 percent exemption in the first five years, 70 percent in the second five years, and 60 percent for all remaining years in service. This applies to projects that are either (i) greater than 20 megawatts and less than 150 megawatts first in service on or after January 1, 2017, or (ii) projects equaling more than five megawatts and less than 150 megawatts for which an initial interconnection request form has been filed on or after January 1, 2019. The bill extends the sunset date after which new projects may not qualify for the exemption from January 1, 2024 to July 1, 2030.

Third-party solar sales [HB1647](#) (Jones) for customers of investor-owned territories and in the certificated service territories of investor-owned utilities, this measure:

- authorizes localities to install solar-powered or wind-powered electric generation facilities and credit the electricity they generate to its metered accounts at the same rate that it would be charged for the power by the utility,

- authorizes third-party power purchase agreements for all customer classes throughout the Commonwealth,
- allows the tenant of a multifamily residential building or the owner of a condominium unit to buy electric power from renewable energy facilities installed by the owner of the rental units or common areas of the condominium,
- establishes a shared solar program that allows customers to purchase electric power through a subscription in a shared solar facility,
- raises the cap for net-metered nonresidential generation facilities from one megawatt to three megawatts,
- increases the limit on the size of a renewable facility an eligible customer-generator may install to 150 percent of expected annual energy consumption,
- removes the ability of utilities to assess standby charges on residential net energy metering customers, and,
- increases the cap on the total amount of renewable energy that can be net metered in a utility's service territory from one percent to 10 percent.

Real estate tax exemption of solar equipment [SB763](#) (Barker) extends the sunset for real estate tax exemption of solar equipment to January 1, 2030 from the current date of expiration, January 1, 2024.

Distributed renewable energy [SB710](#) (McClellan) promotes the establishment of distributed renewable solar and other renewable energy. The measure:

- increases from one percent to six percent the systemwide cap on the total amount of renewable energy that can be net metered in a utility's service territory,
- authorizes third-party power purchase agreements for all customers of investor-owned utilities,
- removes the restriction on customers installing a net-metered generation facility larger than that required to meet their previous 12 months' demand,
- raises the cap for net-metered nonresidential generation facilities from one megawatt to three megawatts, and,
- removes the ability of a Phase I Utility to assess standby charges. The measure also amends the Commonwealth Energy Policy to include provisions supporting distributed generation of renewable energy.

Siting of solar energy facilities [HB1675](#) (Hodges) requires any applicant seeking to locate a commercial solar photovoltaic (electric energy) generation or storage facility, or any portion thereof, on any census tract meeting the eligibility requirements for an opportunity zone as designated by the federal Internal Revenue Service to execute a siting agreement with the host locality in which the census tract is located, prior to the issuance of a permit by rule or certificate of public need. The bill grants localities various powers in executing such siting agreement and contains certain requirements for the agreement provisions. The bill does not apply to any solar photovoltaic (electric energy) generation or storage facility that has received zoning or site plan approval, preliminary or otherwise, from the host locality on or before January 1, 2020.

Solar energy projects; revenue share assessment [SB762](#) (Barker) / [HB1131](#) (Jones) authorize any locality by ordinance to assess a revenue share of up to \$1,400 per megawatt on any solar photovoltaic (electric energy) project with certain exceptions and expands an existing tax exemption for such projects under certain conditions. The bill authorizes such revenue share to apply to existing projects only if certain conditions are met.

Agriculture and natural resources

Nutrient and sediment credit generation and transfer: [HB1609](#) (Mugler) limits the transfer of nonpoint nutrient credits to credits generated by the private sector. Nutrient and sediment credits generated as a result of projects undertaken by public bodies can be used for the purpose of compliance with state water control laws and regulations. Publicly owned treatment works permitted under the Watershed General Virginia Pollutant Discharge Elimination System that are constructing wastewater or treatment works projects can either purchase perpetual nutrient credits or permanently retire a portion of its waste load allocation according to conditions listed in the bill.

This does not limit a public body's ability to engage a third party to generate nonpoint nutrient credits, nor does it prevent a locality from operating a pollutant loading pro-rata share program for nutrient reductions.

Chesapeake Bay Preservation Areas; mature trees: [HB504](#) (Hope) adds the preservation of mature trees or planting of trees, both as a water quality protection tool and as a means of providing other natural resource benefits, to the list

of activities that the State Water Resources Board is directed to encourage and promote as it adopts criteria for local governments to use as they consider development in Chesapeake Bay Preservation Areas.

Expanded polystyrene food service containers: [HB533](#) (Carr) prohibits the dispensing by a food vendor of prepared food to a customer in a single-use expanded polystyrene food service container, as defined in the bill. The bill requires certain chain restaurants to stop using such containers by July 1, 2023 and sets the date for compliance by all food vendors as July 1, 2025.

The bill includes a civil penalty and contains a reenactment clause, meaning it does not become effective unless reenacted in the 2021 session.

Environmental justice; policy: [HB704](#) (Keam) / [SB406](#) (Hashmi) provides that it is the policy of the Commonwealth to promote environmental justice, defined in the bill, and to ensure that it is carried out throughout the Commonwealth.

Offshore oil and gas drilling: [HB706](#) (Keam) / [SB795](#) (Lewis) prohibits the granting of a lease, easement, or permit on the beds of the coastal waters of the Commonwealth that would allow any infrastructure for conveying to shore oil or gas produced from offshore drilling in the Outer Continental Shelf Planning Area and removes any oil or gas lease granted on such beds from the mandate that such lease include a royalty payment requirement. The bill removes policy statements supporting federal efforts to permit oil and gas development 50 miles or more off the Atlantic shoreline.

Clean Energy and Community Flood Preparedness Act: [HB981](#) (Herring) / [SB1027](#) (Lewis) directs the Department of Environmental Quality to incorporate into regulations previously adopted by the State Air Pollution Control Board certain provisions establishing a carbon dioxide cap and trade program to reduce emissions released by electric generation facilities. Such provisions are required to comply with the Regional Greenhouse Gas Initiative (RGGI) model rule.

The bill authorizes the director of DEQ to establish and manage an auction program to sell allowances into a market-based trading program. The bill requires revenues from the sale of carbon allowances, to the extent permitted by the state constitution, to be deposited and distributed:

- to the Virginia Community Flood Preparedness Fund,
- to the Department of Housing and Community Development for low-income energy efficiency programs,
- for administrative expenses, and
- for statewide climate change planning and mitigation activities.

The bill continues the Virginia Shoreline Resiliency Fund as the Virginia Community Flood Preparedness Fund for the purpose of creating a low-interest loan program to help inland and coastal communities subject to recurrent flooding.

Pollution control equipment and facilities tax exemption: [HB1173](#) (Lopez) / [SB685](#) (Mason) addresses the types of certified pollution control projects that are exempt from the sales tax. This applies to stormwater, wastewater, and solid waste facilities by modifying the definition of “certified pollution control device” to include devices that will be constructed. Currently state code only recognizes construction that has been completed, this legislation provides sales tax exempt status for projects prospectively and retrospectively.

Distributed renewable energy: [HB1184](#) (Lopez) promotes the establishment of distributed solar and other renewable energy including allowing local governments in jurisdictions with a population greater than 1 million located in planning district 8 and certain other public bodies to install solar facilities of up to five megawatts on government-owned property and use the electricity for government-owned buildings.

Nuclear energy; strategic plan: [HB1303](#) (Hurst) / [SB549](#) (Newman) directs the Department of Mines, Minerals and Energy, the Secretary of Commerce and Trade, and the Secretary of Education to work in coordination with the Virginia Nuclear Energy Consortium Authority and the Virginia Economic Development Partnership Authority to develop a strategic plan for the role of nuclear energy in the Commonwealth’s overall strategy for moving toward renewable and carbon-free energy. The plan shall be completed by October 1, 2020 and updated every four years thereafter.

Nutrient and sediment credit generation and transfer: [HB1609](#) (Mugler) / [SB747](#) (Hanger) provide that when a publicly owned wastewater treatment works conducts land-disturbing activities in order to construct or expand a facility, it may comply with the water quality requirements associated with such land-disturbing activities by generating and using point source nutrient credits, point source phosphorus credits, and sediment credits through the operation of its existing treatment facilities. The bill requires the treatment works to notify the Department of Environmental Quality of its plan, to adopt a ratio of 10 point source nitrogen credits for each point source phosphorus credit used, and to classify the credits as permanent using a means acceptable to the Department. The bill limits to 10 pounds per year the application of point source phosphorus credits to a single project other than a water reclamation and reuse project.

Department of Environmental Quality; carbon market participation: [SB783](#) (Lewis) authorizes the Department of Environmental Quality to participate in any carbon market for which submerged aquatic vegetation restoration qualifies as an activity that generates carbon offset credits and to enter into agreements necessary to effect such participation, including with private entities for assistance with registration and sale of offset credits. Revenue resulting from the sale of such credits will be used to implement additional submerged aquatic vegetation monitoring, restoration, and research or to cover any administrative costs of participation in the credit market. DEQ will hold exclusive title to credits until sold.

Broadband

***Utility easements:** [HB831](#) (Carroll Foy) / [SB794](#) (Lewis) were opposed by VML. These bills allow broadband and other communication facilities to enter easements for electric or communication facilities without notice the owner. In essence these bills allow for the taking of private property, in direct contradiction with Article I, Section II of the Virginia Constitution, which states that “No private property shall be damaged or taken for public use without just compensation to the owner thereof.”

Furthermore, the bills will **NOT** expand broadband because the companies will not expand service if it is not financially profitable. Profit-making companies will be able to use easements that were paid for by tax dollars for their profit-making business.

Zoning for wireless communications infrastructure: [HB554](#) (VanValkenburg) allows a locality to disprove an application for wireless infrastructure if the applicant did not give written notice to adjacent landowners at least 15 days before applying to locate a new structure in the area.

Virginia Wireless Service Authority Act; appointments to board: [HB1376](#) (Austin) / [SB953](#) (Edwards) move the E-911 board to the Virginia Department of Emergency Management and allow for up to two additional positions on the board established under the Virginia Wireless Service Authority Act.

Broadband bills that died

Allow localities to offer broadband: Failed bills include [HB1052](#) (Levine), [HB1242](#) (Heretick), and [SB351](#) (Locke). A letter was sent to the Department of Housing and Community Development asking that they study this issue.

Incentives for telecommunications companies: [SB536](#) (Edwards) would have directed the Tobacco Commission to award at least \$50 million a year in grants to cover expenditures for the purchase and installation of wireless and broadband equipment to rural service areas in the Commonwealth.

Local authority

Monuments: [HB1537](#) (McQuinn) / [SB183](#) (Locke) allow localities to remove, relocate, contextualize, cover or alter any monument or memorial in the locality’s public property upon affirmative vote of its governing body. Prior to moving the monument or memorial, the local governing body shall for 30 days offer the monument or memorial for relocation to any museum, historical society, government or military battlefield. The governing body is given the sole authority to dispose of such.

Shopping carts: [SB631](#) (Surovell) was given an extra push by a mini-shopping cart that Senator Surovell kept in his office this year to raise awareness. This bill allows localities with a County Manager Plan or Urban County Executive form of government to adopt an ordinance to make it unlawful to leave or abandon a shopping cart on property that is outside the premises of such shopping cart.

The goal of Senator Surovell’s mini-shopping cart (which was not abandoned, just on display) was to finally get the legislation passed...and it did! But it only applies to localities with a County Manager Plan or Urban County Executive form of government.

Under the legislation, a notice of the violation must be sent to the shopping cart’s owner prior to assessing the cost of the removal of the shopping cart. There is also a civil penalty of up to \$500 for a person who violates the ordinance.

Discrimination on basis of sexual identity: [HB696](#) (Roem) allows localities to adopt an ordinance that prohibits discrimination in housing, employment, public accommodations, credit, and education on the basis of sexual orientation and gender identity.

Local authority bills that didn't make it

Regulation of short term rentals: ([HB1474](#)) McGuire met its fate early on (thankfully), but the issue has not gone away completely. This short-term rental regulation bill would have substantially hindered local government authority by dictating what could be included in the local ordinance. The bill was stricken. A second bill, [HB1685](#) (Knight), dealt with registration of short-term rental properties but was left in committee.

City council salaries bill: [HB1108](#) (Hudson) would have removed the salary cap on city council members. This bill died in the Senate Local Government Committee.

Housing

Housing was a big issue this session and looks like it may be again next year.

Affordable housing dwelling unit ordinances: [HB1101](#) (Carr) / [SB834](#) (McClellan) allow localities to create ordinances and use the provisions in this bill to increase the amount of affordable housing. These bills allow zoning ordinances to provide flexibility in density, waivers of parking requirements, fees, a local housing fund and other items to incentivize affordable housing.

Notice of intent to demolish, liquidate, or otherwise dispose of housing projects: [HB921](#) (Jones) / [SB708](#) (McClellan) require a housing authority to submit an application to the U.S. Dept. of Housing and Urban Development to demolish, liquidate or otherwise dispose of a housing project and to provide notice to the Virginia Department of Housing and Community Development, any agency responsible for administering tenant-based rental assistance and each tenant of the housing project. There are timelines and specific criteria that must be included in the notices.

Virginia Fair Housing Law: [HB6](#) (Bourne) adds discrimination on the basis of a person's source of income to the list of unlawful discriminatory housing practices.

Housing bill that died

Inclusionary housing: [HB545](#) (Carr) was a mandate on cities and towns to develop and promulgate housing plans. Luckily this bill was never even heard in committee.

Housing bill slated for study

Ways to incentivize the development of affordable housing: [HB854](#) (Murphy) asks the Virginia Department of Housing and Community Development and the Virginia Housing and Development Authority to convene a stakeholders group this summer to study the quality and quantity of affordable housing, project the need for affordable housing and make recommendations for improvement in the housing policy of the Commonwealth.

Housing bills from Delegate Samirah met different fates

Delegate Samirah introduced multiple pieces of legislation related to housing this session. Given the strong feelings and vigorous debate on these bills, they will undoubtedly resurface.

To be studied:

- [HB152](#) would have overridden local zoning ordinances to require any single-family development or redevelopment to include a portion of "middle housing," defined to include duplexes, townhouses, cottages and similar structures. There were some very impassioned speakers on this bill.

Continued to 2021:

- [HB148](#) would have required the Department of Housing and Community Development to place a notice on its website for signature by the sellers and purchasers of residential real estate. The notice would advise the purchaser to avail himself of educational programs for homeowners prior to the ratification of a real estate purchase contract. Further, the bill would have required owners of residential real estate to provide a copy of the notice to purchasers.

Died:

- [HB147](#) would have required the Virginia Housing Development Authority in conjunction with local housing authorities to study and analyze housing needs and how to address them.
- [HB149](#) would have required the Department of Housing and Community Development to prepare an annual

report on how to reduce administrative and regulatory burdens on obtaining and using federal and state housing funds.

- [HB151](#) would have overridden all local zoning ordinances to allow construction of one accessory dwelling per single-family dwelling. Accessory dwelling unit was defined as an independent dwelling with a bathroom and a kitchen.

Elections

The bottom line for 2020: Major increases in voting accessibility, with additional costs to localities.

Absentee voting; no excuse required: [HB1](#) (Herring) / [SB111](#) (Howell) expand absentee voting to include all voters, regardless of excuse. Further, the bill extends the early voting period before each election to 45 days – both for absentee and in-person voting. It is important to note that, while this bill does not go into effect until July 1, all registered voters are still permitted to vote absentee. The Department of Elections is encouraging voters to select “Reason 2A – Illness/Disability” when applying for absentee ballots, which are currently available for localities with May elections.

Voter identification: [HB19](#) (Lindsey) removes the requirement that voters show a form of identification containing a photograph in order to be allowed to vote. While voters will continue to be allowed to vote using either voter registration information or photo ID as they have in the past, voters may also now show a utility bill, government-issued check, bank statement, or other government-issued document to prove their address. The expiration date on a photo ID will no longer be a factor in the validity of an ID. Should a voter not provide any of these items, he or she may continue to vote by signing an affidavit confirming identity.

***Extended time for persons to register in person:** [HB201](#) (Ayala) provides any person who is qualified to vote is entitled to register to vote in person up to and including the day of the election at the office of the general registrar in the locality in which the person resides or at the polling place for the precinct in which the person resides. Under current law, registration records close for registration purposes, whether in person or by other means, 21 days prior to a primary or general election. The bill has a delayed effective date of October 1, 2022.

Absentee voting; postage prepaid: [HB220](#) (Krizek) requires the envelope provided to an absentee voter for the return of the absentee ballot to include prepaid postage. While the provisions of the bill do not become effective unless reenacted by the 2021 Session of the General Assembly, there is concern that the General Assembly may revisit the issue sooner in response to current events.

Extending polling hours: [HB1678](#) (Lindsey) extends the operating hours of polling places from 7:00 p.m. to 8:00 p.m. Here, too, the bill includes a reenactment clause requiring the General Assembly to pass the bill a second time before it can go into effect.

Redistricting reform survives the session, goes to voters in November

Virginia Redistricting Commission: [SJ18](#) (Barker) establishes a 16-member commission tasked with establishing districts for the United States House of Representatives and for the Senate and the House of Delegates of the General Assembly. The Commission consists of eight legislative members and eight citizen members. The legislative members consist of four members of the Senate of Virginia and four members of the House of Delegates, with equal representation given to the political parties having the highest and next highest number of members in their respective houses. The citizen members are selected by a committee consisting of five retired judges of the circuit courts of Virginia, from lists submitted to the selection committee by the Speaker of the House of Delegates, the leader in the House of Delegates of the political party having the next highest number of members in the House of Delegates, the President pro tempore of the Senate of Virginia, and the leader in the Senate of the political party having the next highest number of members in the Senate.

The Commission is required to submit to the General Assembly plans of districts for the Senate and the House of Delegates of the General Assembly no later than 45 days following the receipt of census data and plans of districts for the United States House of Representatives no later than 60 days following the receipt of census data, or July 1 of that year, whichever occurs later. The measure requires certain vote thresholds for plans, depending on the type of district, in order to be submitted to the General Assembly. No amendments may be made to a plan by the General Assembly, and any plan approved by the General Assembly becomes law without the signature of the Governor. The measure requires additional plans to be submitted, or additional time to be given to submit a plan, in certain circumstances, and further provides that districts will be drawn by the Supreme Court of Virginia if such efforts fail.

To become effective the amendment must be approved by the voters in the November 2020 election.

Standards and criteria for congressional and state legislative districts: [HB1255](#) (Price) / [SB717](#) (McClellan) outline the standards and criteria that SJ18, if passed by referendum, will follow. It is important to note that, for purposes of representation and redistricting (though not for the distribution of funds), incarcerated persons whose registered address prior to imprisonment was in a Virginia locality will be counted as a resident of that locality, not the locality in which his or her facility is based.

Split precincts to be addressed on a decennial basis: [SB 740](#) (Obenshain) requires each county and city precinct to be wholly contained within a single congressional district, Senate district, House of Delegates district, and local election district. By July 1 of each year ending in one, the governing body of each county and city is required to establish the precinct boundaries to be consistent with any congressional, state, and local election district that was adopted by the appropriate authority by June 15 of that year. If a governing body is unable to establish such a precinct, it will then be required to apply to the State Board of Elections for a waiver to administer a split precinct.

Health and human services

Water testing studies and potential new requirements:

- [HB586](#) (Guzman) requires the Virginia Commissioner of Health to convene a workgroup study regarding the presence of PFOA, PFOS, PFAS substances in drinking water; the Commissioner may develop recommendations for maximum acceptable levels for inclusion in Virginia Department of Health regulations for waterworks. The workgroup will consist of a broad array of stakeholders, including operators of community waterworks, private operators, and consumers. The deadline for the study report and recommendations is December 1, 2021.
- [HB1257](#) (Rasoul) is more far-reaching than HB586. It directs the State Board of Health to adopt regulations establishing maximum contaminant levels (MCLs) in public drinking water systems for (i) perfluorooctanoic acid, perfluorooctane sulfonate, and for such other perfluoroalkyl and polyfluoroalkyl substances as the Board deems necessary; (ii) chromium-6; and (iii) 1,4-dioxane. It requires that these MCLs be protective of public health, including the health of vulnerable subpopulations, and to be no higher than any MCL or health advisory adopted by the U.S. Environmental Protection Agency. It directs that a report on the status of research related to MCLs for these substances be submitted to the chairs of Senate Education and Health and House Health, Welfare and Institutions by Nov. 1, 2020 and a final report to those committees by Oct. 1, 2021. Enactment of the bill's provisions is delayed to Jan. 1, 2022.

Comprehensive harm reduction programs

Two types of bills came forward this year: one set to repeal the current sunset on comprehensive harm reduction programs, and another to expand the types of organizations that can operate such programs. The latter would take out the local approval process but would require security plans be filed in consultation with local law enforcement.

Public health emergency; repeal sunset: [HB378](#) (Rasoul) / [SB864](#) (Pillion) simply repeal the sunset on the program established in 2017 that allows the Commissioner of Health to establish and operate local or regional comprehensive harm reduction programs during a declared public health emergency that include a provision for the distribution of sterile hypodermic needles and syringes and the disposal of used hypodermic needles and syringes.

Authority to establish and operate: [HB791](#) (Plum) repeals the sunset on the program established in 2017 regarding establishment of comprehensive harm reduction programs and broadens the types of providers of these programs to include not just local health departments but other types of organizations and allows such programs in all areas of the state. The State Health Commissioner or his/her designee may authorize and contract with local health departments or other organizations to operate such programs. These programs would not require local governing body or local law enforcement sign-off to operate but would be required to annually file a security plan in consultation with local law enforcement.

Epi-pens in public places; availability and protections: [HB1147](#) (Keam) allows public places (including all local government buildings and indoor facilities) to make epinephrine available for administration and employees of such places who are authorized by a prescriber and trained in administration of epinephrine to possess and administer the drug to a person believed in good faith to be experiencing an anaphylactic reaction. It also protects the person acting in good faith from civil damages. The Virginia Department of Health and Department of Health Professions will develop policies and guidelines for recognition and treatment of anaphylaxis in public places. Those policies and guidelines are due to the Commission of Health by July 1, 2021.

Process for approving psychiatric services for children to be studied

[HB728](#) (Hope) / [SB734](#) (Deeds) directs the Secretaries of Education and Health and Human Resources to create a workgroup to study the current process for approval of residential psychiatric services for children and adolescents. The group would report its findings and recommendations to the House and Senate budget-writing committees and to the Joint Subcommittee to Study Mental Health Services in the Commonwealth (the Deeds Committee) by December 21, 2020.

CSA-related bills carried over for the year

The issue of the growing costs for private special education placements paid for with state and local Children's Services Act (CSA) funds came up again in the 2020 Session. A number of bills were introduced; all were carried over because the Joint Legislative Audit and Review Commission (JLARC) is studying these issues this year and is expected to issue reports in the fall. The carried over bills include:

Feasibility of educational placement transition of certain students with disabilities: [HB49](#) (McNamara) / [SB128](#) (Sutterlein) would create pilot programs in up to eight localities regarding the use of Children's Services Act (CSA) and other funds for special education programs in public school settings as a way of diverting children from more expensive private day programs.

Special education programs: [HB762](#) (Cole, JG) would allow localities and their school systems in planning district 16 to use Children's Services Act (CSA) pool funds to help deliver special education programs to children in public school settings rather than using more expensive private placements that can use CSA funds.

Community policy and management teams; use of funds: [SB190](#) (Peake) would allow a community policy and management team (CPMT) to use the Children's Services Act (CSA) state pool of funds for services in a public school setting as well as for private special education day schools. Currently the funds may not be used in public school settings, only in private settings and for out-of-school-time services.

Health district director qualifications bill carried over

Another bill of interest to local governments would broaden the qualification requirements for local health directors. [SB993](#) (Locke) was carried over by a House committee. It would allow a person with a DrPH, DPH, or MPH degree, as opposed to a MD, to serve as a local health department director or as state health commissioner. This bill will be recommended to the General Assembly's Joint Commission on Health Care (JCHC) for possible study during 2020. Several states allow individuals without a medical degree to serve as a health director; it was not clear how those departments compare to Virginia's health departments in terms of responsibilities, staffing, operations or funding.

K-12 Education

***SOQ staffing recommendations receive more support:** As [VML's 2020 Budget Summary](#) outlines, [HB1508](#) (McQuinn) and [SB880](#) (Locke) continue the Commonwealth's trajectory of reducing school counselor-to-student ratios, bringing the maximum ratio allowed down to 1:325 by the 2021-2022 school year.

[HB975](#) (Guzman) and [SB910](#) (Hashmi) increase the number of English Language Learning (ELL) teachers to 18.5 per 1,000 ELL students in Fiscal 2021 and 20 per 1,000 students in Fiscal 2022.

Meanwhile, [HB1143](#) (Tran) adds licensed behavior analysts to the list of SOQ-funded support positions.

Full-day kindergarten coming to all Virginia schools by Fiscal 2023: [SB238](#) (Barker) increases the standard for accreditation of kindergarten classrooms to require full-day instruction. While the vast majority of kindergarten classes statewide have already made this transition, some divisions are still in the process of increasing instructional time. A major issue is the availability of space, and capital costs are paid primarily by local governments. SB238 will require all schools to have completed this transition by July 1, 2022.

Schools to provide free menstrual supplies to students: [HB405](#) (Keam) / [SB232](#) (Boysko) require each school board to make tampons or pads available, at all times and at no cost to students, (i) in such accessible locations as it deems appropriate in each elementary school in the local school division and (ii) in all girls' middle and high school bathrooms. While the final budget bill includes no funding, the patrons argued that school districts could partner with nonprofit organizations across the state to have products donated.

Currently, schools are required to provide menstrual supplies at no cost, but they only have to be available in nurses' offices.

Sunscreen: [SB44](#) (Spruill) allows children to bring sunscreen to school if it is in its original packaging.

Procurement

Small purchases: [HB452](#) (Murphy) / [SB650](#) (Boysko) increase from \$100,000 to \$200,000 the small purchases exemption in the Virginia Public Procurement Act for single or term contracts for goods and services that are not professional services and non-transportation related construction.

Enhancement of micro-business participation in local procurement: [HB558](#) (Lindsey) will allow a locality to enact an ordinance that will enhance micro-business participation in local government procurement practices. “Micro-business” is defined as a small, women-owned or minority-owned business with no more than 25 employees.

Construction management contracting; use by local public bodies: [HB890](#) (Sickles) / [SB341](#) (Locke) deal with construction management or design-build contracts with localities. The bills change the limit where construction management may be used by localities without it being a complex project and getting approval of the local governing body from \$10 million to \$26 million.

Determination of non-responsibility: [HB1201](#) (Tran) / [SB380](#) (McPike) allow localities to include a bidder’s history of completion of safety training programs and apprenticeship programs in determining if a low bidder is responsible.

Prevailing wage; public works contracts; penalty: [HB833](#) (Carroll Foy) / [SB8](#) (Saslaw) allow, but do not require, localities to adopt ordinances requiring contractors for public works contracts to pay employees the prevailing wage.

Project labor agreements: [HB358](#) (Lopez) authorizes any public body to require bidders, offerors, contractors or subcontractors to enter into project labor agreements for construction and public works projects.

Architectural and professional engineering term contracts:

- [SB368](#) (Bell) decreases the population threshold from 78,000 to 50,000 for localities that may use higher limits on architectural and engineering term contracts.
- [SB487](#) (Bell) increase the aggregate limit for architectural and engineering services contracts for certain larger localities for projects performed in a one-year contract term from \$6 million to \$8 million.

Contracts with design professionals; provisions requiring a duty to defend void: [SB658](#) (Surovell) prohibits contract provisions requiring architects and engineers to defend the public body.

Water and sewer connections bill carried over

Water and sewer service charges; tenant or lessee: [SB826](#) (McDougle) would take away local government authority to collect delinquent water and sewer charges above \$300 from a property owner if the tenant is delinquent and reasonable collection efforts have been made. Under current law, liens cannot exceed more than 3 months of fees and charges; the proposed cap of \$300 prohibits localities from recovering the true cost of providing water and sewer and places a burden on other users of the system. The bill was continued in House General Laws.

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2020 VML Legislative Committee

Chair: Roger Fawcett, Council Member, City of Suffolk

Vice Chair: Benny Zhang, Council Member, City of Williamsburg

City Section

Hector Cendejas, Council Member, City of Manassas Park
Erik Curren, Council Member, City of Staunton
Frank Friedman, Mayor, City of Lexington
Mary Person, Mayor, City of Emporia
Billy Withers, Council Member, City of Fredericksburg
Benny Zhang, Council Member, City of Williamsburg

Town Section

Nancy Bailey, Vice Mayor, Town of Big Stone Gap
Jennifer Baker, Council Member, Town of Herndon
Michael Barber, Mayor, Town of Christiansburg
Jim Bradley, Council Member, Town of Gordonsville
Kelly Burk, Mayor, Town of Leesburg
Joseph Goodman, Council Member, Town of Pulaski

Urban Section

Elizabeth Bennett-Parker, Vice Mayor, City of Alexandria
Katie Cristol, Board Member, County of Arlington
Roger Fawcett, Council Member, City of Suffolk
Robert Ike, Council Member, City of Chesapeake
Alonzo Jones, Mayor, City of Danville
Sherman P. Lea, Sr., Mayor, City of Roanoke
Deanna Reed, Mayor, City of Harrisonburg
John Rowe, Mayor, City of Portsmouth
Christine Snead, Councilwoman, City of Hampton
Levar Stoney, Mayor, City of Richmond
Tina L. Vick, Vice Mayor, City of Newport News
Sabrina Wooten, Council Member, City of Virginia Beach