



Bulletin



February 6, 2020

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Budget Amendments

VML worked with members of the General Assembly to introduce a package of budget amendments that address key local government priorities. In addition, VML supports several other amendments requested by partner organizations. Budget proposals are being considered by the House Appropriations and Senate Finance Committees in advance of reporting their respective budgets on Sunday, February 16.

Members of the House Appropriations Committee:

[Torian \(Chair\)](#), [Sickles \(Vice Chair\)](#), [Plum](#), [Tyler](#), [Bulova](#), [McQuinn](#), [Carr](#), [Krizek](#), [Aird](#), [Hayes](#), [Hurst](#), [Jones](#), [Reid](#), [Cox](#), [Knight](#), [Morefield](#), [Fariss](#), [Rush](#), [Davis](#), [Austin](#), [Bloxom](#), and [Brewer](#)

Members of the Senate Finance and Appropriations Committee:

[Howell \(Chair\)](#), [Saslaw](#), [Norment](#), [Hanger](#), [Lucas](#), [Newman](#), [Ruff](#), [Vogel](#), [Barker](#), [Edwards](#), [Deeds](#), [Locke](#), [Petersen](#), [Marsden](#), [Ebbin](#), and [McClellan](#)

Please thank the patrons of these amendments and encourage your General Assembly members to support the proposals, particularly if your legislators serve on the [House Appropriations](#) or [Senate Finance and Appropriations](#) Committees.

Elimination of K-12 Support Position Cap

[Item 136 #1h \(Mugler\)](#) / [Item 136 #1s \(Deeds\)](#) / [Item 136 #2s \(Lucas\)](#) direct the Secretary of Education and the Secretary of Finance, in consultation with the appropriate legislative committee chairs, to develop a plan to eliminate the cap on recognition of support positions in the Standards of Quality and instead revert to recognition of staffing levels in accordance with prevailing local practice. The plan must be submitted before the next legislative session and contain a schedule for full elimination of the cap by FY 2025.

KEY POINTS

- The ten-year support cap places an artificial limitation on the number of support positions for which the state will share costs. These positions, such as school social workers and IT professionals, play an important role in the operation of a school system. Eliminating the state’s share of funding for these positions does not eliminate the need for these services.
- This amendment allows for a phase-in of full funding over several fiscal years, similar to the approach taken by the General Assembly in returning to full funding of the actuarial rates for the Virginia Retirement System.
- It’s important to recognize that the cap was imposed at the lowest point of the Great Recession. State finances have rebounded significantly since 2010.

Removal of Certain K-12 Positions from the Support Position Cap

[Item 145 #23h \(Davis\)](#) / [Item 145 #8s \(Barker\)](#) / [Item 145 #10s \(Ebbin\)](#) remove certain student support positions – school psychologists, school social workers, school nurses, and other licensed behavioral health positions -- from the support cap and provide the state’s share of funding staffing for these positions based on prevailing local practice, as was done before the imposition of the cap. [Item 145 #8h \(Heretick\)](#) / [Item 145 #28h \(Hayes\)](#) / [Item 145 #7s \(Spruill\)](#) / [Item 145 #9s \(Boysko\)](#) are similar.

KEY POINTS

- Students have increasingly complex medical and mental health care needs, and these specialized positions are important in ensuring that these needs can be met so that students can succeed at school.
- This amendment is similar to the Virginia Board of Education’s 2019 prescription to remove mental and behavioral health positions from the support position funding cap and provide local flexibility as to which positions are most needed in each school division.
- It’s important to recognize that the cap was imposed at the lowest point of the Great Recession. State finances have rebounded significantly since 2010.

Funding for sheriffs’ departments with law enforcement responsibility

[Item 68 #3h \(LaRock\)](#) / [Item 68 #4h \(Delaney\)](#) / [Item 68 #3s \(Bell\)](#) / [Item 75 #1s \(Bell\)](#) provide funding for 237 sheriffs’ deputies in FY 2021 and an additional 21 deputies in FY 2022 in order to meet the statutory staffing ratio of 1 deputy per 1,500 in population in localities in which the sheriff has primary responsibility for law enforcement.

KEY POINTS

- This staffing ratio has not been funded since FY 2008, leaving localities to fund positions needed to preserve public safety.
- In addition to traditional criminal justice responsibilities, the entity with primary law enforcement responsibility in each locality provides transportation for individuals subject to emergency custody orders or temporary detention orders, which can place a significant strain on law enforcement, especially when individuals must be transported long distances to find an available bed at a psychiatric hospital. The state has worked to fund an alternative provider, but law enforcement is still expected to be responsible for approximately half of mental health transports, making full staffing essential.

Jail per diem payments

[Item 69 #1h \(Hope\)](#) / [Item 69 #1s \(Lucas\)](#) provide an 18 percent increase in jail per diem payments to reflect the equivalent increase in inflation (as measured by the Consumer Price Index) since the last time per diem payments were adjusted downward (in 2010).

KEY POINTS

- During the recession in 2010, the state reduced local-responsible per diem payments by half, from \$8 per day to \$4 per day; the payments for state-responsible inmates were changed from \$8 per day for the first 60 days and \$14 per day thereafter to a standard rate of \$12 per day. The Compensation Board estimates that the average operating cost to localities per inmate per day was \$48.05 in FY 2018.
- Additional resources will be necessary for local and regional jails to comply with behavioral health and medical care standards that are currently under development by the Board of Corrections at the direction of the 2019 General Assembly.

Assistance to localities with election security requirements

[Item 83 #1h \(Sickles\)](#) [amendment proposed to the “caboose” FY 2020 budget] / [Item 83 #1s \(Deeds\)](#) [amendment proposed to the “caboose” FY 2020 budget] / [Item 86 #6s \(Deeds\)](#) [amendment proposed to the biennium budget] express the General Assembly’s intent that the most recent allocation of federal funding to Virginia under the Help America Vote Act should be provided to localities to assist them in complying with election security standards adopted as a result of legislation enacted in 2019 or to assist with future security standards adopted by the State Board of Elections.

KEY POINTS

- In November 2019, the State Board of Elections adopted election security standards for local information technology systems that interact with the state’s voter registration system.

- As part of the Department's work to implement the new standards, localities are required to complete two self-assessments to develop a baseline for readiness to implement the new standards. Results of these self-assessments are expected to be used by the Department to determine how best to assist localities within resources available to the Department.
- The federal budget agreement signed in December 2019 includes \$425 million in Help America Vote Act funds, of which \$10.2 million is expected to be allocated to Virginia, with a \$2 million state match. This federal funding would be a natural opportunity to assist localities in complying with these security requirements.
- At present, the state pays a portion of the salaries of the Registrars and local electoral board members (the introduced budget proposes to provide full reimbursement for the state-mandated compensation levels for these positions, which is a step in the right direction). The operations budgets are paid for with local funds.

Eligibility for Virginia Telecommunication Initiative Funding

[Item 114 #5h \(Bloxom\)](#) / [Item 114 #1s \(Lewis\)](#) broaden eligibility for Virginia Telecommunication Initiative (VATI) funding such that a local government or other public entity could qualify for funding. The amendments also provide for local government participation on the broadband telecommunications advisory group required to be convened by the Chairman of the Virginia Growth and Opportunity Board.

KEY POINTS

- This amendment provides greater access to grant funds to local governments that finance, build and operate network infrastructure in partnership with commercial internet service providers. Specifically, the amendment clarifies that grant funds can be used to supplement construction costs by both the private sector and local governments. This added clarity will provide greater flexibility to local governments seeking to find the most cost-effective solution to provide internet access to currently unserved areas.
- There will be times when the most cost-effective solution will involve local governments building, owning and operating parts of the broadband infrastructure. One such example could be fiber optic lines that are made available to private sector partners providing service to end users.
- This language does not change the purpose or priority of VATI to fund public-private partnerships. It simply enhances the ability to do so by injecting competition into the development of broadband services in unserved and underserved areas.

Service charges in lieu of taxes for state correctional facilities

[Item 402 #6h \(Tyler\)](#) / [Item 402 #26s \(Ruff\)](#) provide funding for service charges levied in lieu of property taxes on state correctional facilities and eliminate budget language that overrides the existing statutory mandate for the Department of Corrections to pay these service charges.

KEY POINTS

- Historically the state has recognized that the presence of a large proportion of non-taxable property owned by the Commonwealth within a locality could stress local revenues.
- Virginia Code allows service charges to be imposed on certain real estate owned by the Commonwealth if the value of all such property within a locality exceeds three percent of the value of all real property within a locality. The service charge must be based on the assessed value of the state-owned tax-exempt property and is generally limited to the costs incurred by the locality for police and fire protection and refuse collection and disposal.
- The 2010 Appropriations Act eliminated this assistance to localities housing state prisons, beginning in FY 2011. The amendment provides approximately \$1.6 million per year to restore these payments.

Aid to Localities with Police Departments

[Item 408 #1h \(Avoli\)](#) / [Item 408 #1s \(Marsden\)](#) provide additional funding for localities with police departments ("HB 599") in accordance with the statutory requirement for this funding to grow in tandem with expected growth in state General Fund revenues.

KEY POINTS

- The introduced budget level-funds HB 599 appropriations despite expected growth in each year of the biennium (4.5 percent in FY 2021 and 3.7 percent in FY 2022). The amendment provides \$8.6 million in FY 2021 and \$16 million in FY 2022 to fund HB 599 in accordance with expected state General Fund growth, in line with the Code of Virginia requirements.
- If the General Assembly had funded the program in accordance with state statute in the past, the annual appropriation would be \$359.1 million in FY 2022 (rather than \$191.8 million as included in the introduced budget). Localities have stepped up to meet local public safety needs, increasing their local contributions to law enforcement by 25.6 percent from FY 2007 to FY 2018.

Local vehicle license fees

[Item 438 #2h \(McQuinn\)](#) / [Item 438 #2s \(Marsden\)](#) provide that localities may continue to levy vehicle license fees up to the maximum state rate allowed as of January 1, 2020, regardless of any legislation enacted by the 2020 General Assembly that may adjust the state fee.

KEY POINTS

- The Governor has proposed cutting the state vehicle registration fee in half; as local fees have been limited to the state maximum rate by statute, there has been concern that reducing the state fee would jeopardize existing local fees.
- The Administration has assured VML that its intent is to preserve local authority to impose license fees at the current maximum state rate, and the omnibus transportation funding bills as introduced contain such language. The budget amendment is intended as an additional layer of protection for local fees.

“Orphan” drainage outfalls

[Item 430 #2h \(Tyler and Brewer\)](#) / [Item 430 #1s \(Lucas\)](#) direct the Secretary of Transportation and the Secretary of Natural Resources, in consultation with affected counties, to evaluate the prevalence across the state of drainage outfalls that originate from roads maintained by the Virginia Department of Transportation but do not have an entity assigned to maintain them, and recommend cost-effective approaches to fund maintenance of these “orphan” outfalls.

KEY POINTS

- In certain older subdivisions generic drainage easements (not assigned to any party) that extend beyond the VDOT right-of-way are not being claimed and maintained by VDOT. Years of neglect and lack of maintenance have led to severe erosion problems, affecting property owners and posing potential safety concerns.
- Since the issue involves both road maintenance and stormwater runoff, the study seeks to combine the expertise of engineers from both VDOT and the Department of Environmental Quality to come up with cost-effective solutions along with recommendations on how to fund needed repairs.

Urban road maintenance

Cities and towns that own their roads receive state funding for street maintenance. [Item 451 #3h \(Bulova\)](#) / [Item 451 #1s \(Marsden\)](#) restores funding of \$8.5 million for the state assistance program which was level-funded in fiscal year 2020. The amendment also includes policy language directing VDOT to adjust for inflation future payments made to cities and towns.

KEY POINTS

- Notwithstanding Gov. Northam’s recommendation to spend \$396 million in FY21 and \$411.3 million in FY22, cities and towns routinely spend 30 percent more than the funding amounts received from VDOT to maintain their street systems.
- Maintaining street infrastructure is critical at the local level for motorist safety. Crumbling roads put the public’s safety at risk and frustrate commuters.
- Potholes and deteriorating roads hurt local commercial activity.

Preservation of Communication Sales and Use Tax Trust Fund

[Item 3-1.01 #1h \(Plum\)](#) / [Item 3-1.01 #3s \(Ebbin\)](#) protect the Communications Sales and Use Tax Trust Fund from further erosion by eliminating a proposed transfer of \$2 million per year from the Trust Fund to the state General Fund.

KEY POINTS

- When localities agreed to the restructuring of local telecommunications taxes in 2006 and these taxes were consolidated into a single tax collected by the state, it was understood that these revenues were to be held in trust for localities, not used for general state purposes.
- In 2018, there were savings in the telecommunications relay contract, which is funded “off the top” of the Trust Fund in accordance with statute; rather than distribute the savings to localities, the General Assembly swept \$2 million per year into the General Fund. This amendment reverses that transfer in the 2020-2022 biennium.
- Avoiding further erosion of the Trust Fund is particularly important to local governments as revenues have declined since the tax was first instituted (approximately \$475 million was collected in FY 2008, while collections had fallen to \$386 million in FY 2018).

Stormwater Local Assistance Fund (SLAF) / Water quality improvement funding included in introduced budget

[HB30](#) (Torian) / [SB30](#) (Norment) would create \$182 million in Virginia Public Building Authority bond funding for the Stormwater Local Assistance Fund. SLAF is a 50/50 cost-share for stormwater infrastructure planning and construction. It is a competitive grant program administered by DEQ.

Localities are faced with many stormwater mandates. The Governor’s proposed \$182 million proposal would yield, with local match, \$364 million in projects.

The bills would also create \$120 million in Virginia Public Building Authority bond funding for the Water Quality Improvement Fund (WQIF). WQIF is a cost-share competitive grant program to assist localities with wastewater treatment plant upgrades.

Localities are faced with many clean-water mandates, especially in pollution reduction from wastewater plants.

Additional priority amendments VML supports:

Assistance with no-excuse absentee voting implementation

[Item 86 #12s \(Deeds\)](#) provides \$5 million each year of the biennium to assist localities with needs associated with no-excuse absentee voting.

Partial restoration of funding for planning district commissions

[Item 114 #3h \(McQuinn\)](#) / [Item 114 #4s \(Lucas\)](#) provide \$294,000 each year of the biennium for partial restoration of funding to planning district commissions that was reduced during the recession.

Elimination of cap on recognition of support positions in the Standards of Quality

[Item 145 #16h \(Leftwich\)](#) / [Item 145 #29h \(Aird\)](#) / [Item 145 #15s \(McClellan\)](#) provide approximately \$407 million in each year of the biennium to eliminate the cap on recognition of support positions in the Standards of Quality.

Aid to local public libraries

[Item 247 #1h \(Sickles\)](#) / [Item 247 #2s \(Norment\)](#) provide \$2.75 million in FY 2021 and \$5.5 million in FY 2022 in state aid to local public libraries, and state the General Assembly’s intention to achieve full funding of the formula for state aid by FY 2024.

State Support for Community Services Boards (CSBs)

- [Item 322 #5h \(Bulova\)](#) / [Item 322 #3s \(Boysko\)](#) provide \$9.3 million per year to restore funding cut in the 2018 Appropriations Act on the expectation that CSBs would be able to replace state General Fund support with Medicaid reimbursements for clients who were newly eligible for Medicaid after expansion. This funding would cover the difference between the \$25 million General Fund reduction and expected Medicaid reimbursements.
- [Item 322 #3h \(Bulova\)](#) / [Item 322 #5s \(Boysko\)](#) provide \$575,968 in FY 2021 and \$3.1 million in FY 2022 for full funding of the outpatient services component of STEP-VA.
- [Item 313 #55h \(Robinson\)](#) / [Item 313 #46s \(Ruff\)](#) provide \$3.5 million from the general fund each year (along with a matching amount of Medicaid funds) to increase the early intervention case management rate, which currently does not fully cover the cost of these services.

Foster Care and Child Welfare

- [Item 354 #3h \(Keam\)](#) / [Item 354 #10s \(Pillion\)](#) provide \$500,000 each year for a grant program to assist local departments of social services with recruiting and retaining foster families.
- [Item 354 #5h \(Mullin\)](#) / [Item 354 #4s \(Favola\)](#) provide \$500,000 each year for a state-funded child welfare stipend program that would assist local departments of social services with recruiting social work students to serve in local departments.

Water Quality

[Item 377 #5h](#) (McQuinn) directs the Department of Environmental Quality (DEQ) to develop an alternative point source implementation approach to the one provided in the Phase III Watershed Implementation Plan. The review would consider technical data on the performance of prior Water Quality Improvement Fund grant recipients, and consider if there is a technical basis to update the Plan and decrease Water Quality Improvement Fund appropriations through 2025.

[Item 377 #5s](#) (Sen. Hanger) directs DEQ to work with municipal wastewater permittees to study the WIP III assumptions and technical data. Also prohibits any state funds to be spent on rulemaking regarding WIP III until this study is completed.

[Item 377 #1h](#) (Del. Bulova) directs DEQ to work with municipal wastewater permittees to study the WIP III assumptions and technical data. However, there is no prohibition on state funds being spent on rulemaking regarding WIP III until this study is completed.

Revenue fairness bills would help counties provide services, diversify revenue streams

[HB 785](#) (Watts) and similar bills [SB 484](#) (Favola) and [SB 588](#) (Hanger) would allow revenue diversification for counties by providing important additional tools to fund core services. HB 785 will be heard by the full committee this week. SB 484 and SB 588 are expected to be heard in Senate Finance and Appropriations this week as well.

HB 785 would authorize counties to impose admissions and cigarette taxes in the same manner as those revenue sources are available to cities. The bill would authorize counties to impose transient occupancy taxes above two percent; revenue generated by taxes up to a five percent rate would either be used for purposes already authorized (so as to preserve existing arrangements made by localities) or would be used for tourism promotion. Revenues generated above a five percent rate could be used for general purposes. As amended in subcommittee, the bill would allow counties to impose meals taxes without a referendum, but if a county's meals tax referendum failed before July 1, 2020, it could not impose a meals tax until six years after that referendum.

SB 484 and SB 588 are being discussed by the patrons and a substitute is being developed that would authorize counties to impose meals, transient occupancy, cigarette, and admissions taxes, subject to caps and subject to a delayed enactment date of July 1, 2021. Proposed enactment clauses would provide for a delay in imposition of meals taxes until July 1, 2022, in counties in which a referendum failed prior to this year, as well as directing a stakeholder workgroup to streamline the process of cigarette tax collection.

Key Points

- Counties are funding partners with the state in providing core government services, such as K-12, public health, and public safety, and need revenue options to meet these responsibilities. It should be noted that while cities and some towns are responsible for road maintenance, those localities receive assistance from the state with this responsibility via annual maintenance payments.
- Counties are limited in their ability to raise revenues from diverse sources and must rely heavily on real estate taxes.
- The additional funding options under consideration are not new taxes. These are revenue options which are currently available to cities and will assist counties in responding to the challenge of meeting increasingly complex needs, such as securing elections against cybersecurity threats, modernizing the E-911 system, and maintaining critical infrastructure.
- Counties are seeking this additional revenue authority without limiting existing authority currently available to cities and towns, such as cigarette taxing authority.
- There should be no erosion of the current levies available to localities.

Peer-to-peer vehicle rental bills will shortchange localities

[HB 1539](#) (Jones) reduces the Motor Vehicle Rental Tax for consumers who rent vehicles through sharing platforms like [Maven](#) or [Turo](#) from 10 percent to 6 percent. A House Appropriations subcommittee has recommended that the full committee approve the bill.

VML opposes this bill because of the revenue impact on state and local budgets. There should be an "equal playing field" in the marketplace and tax preferences should not be provided for one private group at the expense of another private business.

[SB 735](#) (Newman) is the Senate's version of the sharing platforms' proposal. Like HB 1539, it would cut the Motor Vehicle Rental Tax from 10 percent to 6 percent, reducing local revenues. The bill is in the Senate Finance and Appropriations Committee.

Key Points

- Tax preferences should not be provided for one private group at the expense of another private business. A level playing field is critical in supporting a vibrant marketplace.

- SB 735 and HB 1539 cut local revenues and fail to make up for those reductions.
- SB 735 and HB 1539 eliminate support for the law enforcement radio system managed by the Department of State Police. This will require the state to find general fund dollars elsewhere in the budget to pay debt service for the radio system as well as any other operating costs supported by the current Motor Vehicle Rental Tax.

Senate measures supported by VML are [SB 749](#) (Cosgrove) and [SB 750](#) (Cosgrove). These measures address insurance, legal and administrative issues that preclude the collection of taxes owed to the Commonwealth and to localities. Both bills, along with SB 735, will be considered by the Senate Finance and Appropriations Committee February 6th.

Property tax exemptions and disabled veterans

Constitutional amendments approved by voters beginning in November 2010 provide property tax exemptions for certain veterans and their surviving spouses and surviving spouses of soldiers killed in action. The General Assembly is now considering several measures that would require the state to share the fiscal burden localities alone now bear:

- [HB 363](#) (Cole) would require the state to reimburse eligible localities for providing property tax exemptions for totally disabled veterans and their surviving spouses and for surviving spouses of members of the armed forces killed in action. The subsidy would be based on the amount of real estate taxes foregone by an eligible locality as a result of the exemptions if the amount of lost revenue is equal to at least 1 percent of a local government's real estate tax base. Although most localities would not qualify under HB 363, the bill is an important step in starting a conversation about how the state can assist localities with the cost of these tax exemptions. The bill has been referred to the House Appropriations Committee. An identical bill in the Senate, [SB 143](#) (Stuart), was carried over to the 2021 Session.
- [HB 1496](#) (Mugler) would reimburse localities for the entire cost of the veterans' property tax exemptions. The state's preliminary estimate for the proposal is \$37 million annually. This bill was also referred to the House Appropriations Committee.

But these bills are not the only proposals of their kind before the General Assembly. In fact, both the House and Senate are considering constitutional amendments that would expand the property tax exemptions to include personal vehicles. [HJ 103](#) and [SJ 58](#) would exempt one motor vehicle owned by a totally disabled veteran or the veteran's spouse from personal property taxes. This is the second year of consideration for these measures, which passed the 2019 General Assembly, and if they succeed in the 2020 session, they will be placed before the voters in November.

The House measure is in the House Privileges and Elections Subcommittee on Constitutional Amendments. SJ 58 is before the Senate Finance and Appropriations Committee.

KEY POINTS

- From a policy perspective, the sacrifices made by the nation's military men and women and their families are not a result of actions, ordinances or resolutions taken by local governments.
- Assisting totally disabled veterans and the surviving spouses of these veterans should be a shared responsibility of the Commonwealth and localities. It is unfair for the state to impose this unfunded mandate on Virginia's cities, counties and towns.
- Expanding the property exemptions to include personal property will exacerbate local finances by restricting a local government's fiscal flexibility and taxing authority.

Legislation to improve the local fiscal impact review process should be supported

[SB 188](#) (Peake) seeks to enhance the current process by which bills are reviewed for potential fiscal impacts on local governments. The measure would require that bills that would mandate additional expenditures by local governments or reduce local revenues be filed by December 15, so that there would be additional time for the Commission on Local Government staff and the local volunteers assisting them to complete their analyses before the bills would be heard. In the past, bills with a local fiscal impact were required to be introduced by the first day of the legislative session, but this deadline was repealed in 2010.

SB 188 also directs the Commission on Local Government to work in cooperation with VML and VACo to develop improvements to the fiscal impact review process.

SB 188 has been referred to the Senate Rules Committee and is expected to be heard on Friday, February 7. Please encourage committee members to support the bill.

KEY POINTS

- A thorough analysis of legislation that would affect local finances is beneficial to policymakers, since localities are responsible for delivering many services to Virginians in partnership with the state.
- The high volume of bills that must be reviewed in a compressed time period makes it challenging to produce a robust analysis, particularly as local volunteers are assisting with the review process, which often coincides with the development of local budgets, in addition to their regular duties.

Reducing environmental impacts of plastic bags

Although both the House and Senate are interested in enacting legislation to reduce the impact of plastic bags on landfills and state waters, the relevant committees are struggling to develop a coherent strategy.

In the House, [HB 1151](#) (Lopez) will be heard this week in the House Finance Committee. As reported by a subcommittee last week, the bill allowed for localities to impose a tax on single-use plastic bags. The bill, however, *would direct the revenue to go to the state*. The local revenues would be allocated to the Virginia Water Quality Improvement Fund and the Virginia Natural Resources Commitment Fund. In other words, local governing bodies would impose the tax while the General Assembly disposes. However, discussions continue on the imposition of the tax and the use of the revenues.

[HB 534](#) (Carr) imposes a statewide \$.05 fee on all single use plastic bags. Revenues are collected by the state and directed to the Water Quality Improvement Fund and the Litter Control and Recycling Fund. HB 534 was reported to the full house this week.

The Senate Finance and Appropriations Committee stumbled last week in coming up with a workable proposal. Senator Ebbin and Senator Petersen, who sponsored the two major bills ([SB 11](#) and [SB 26](#)), were instructed by the Committee Chair Senator Howell to return this week with a new proposal.

KEY POINTS

- The decision to ban these materials or to impose a fee or tax is better suited for local elected officials who understand the needs of their communities, including environmental issues.
- Any fee imposed by a locality should remain in that community and be dedicated to address local environmental challenges. It is bad fiscal policy for one level of government (the state) to usurp another's revenues.

Bills extending state-mandated exemption from local taxes for large solar projects

[HB 1131](#) (Jones), [HB 1434](#) (Jones) and [SB 762](#) (Barker), [SB 763](#) (Barker), if adopted, would extend a state mandate to exempt utility-scale solar projects from local tax to 2030 (currently set to expire in 2024). HB 1131 and HB 1434 passed in subcommittee earlier this week on identical 6 to 4 votes.

In 2016 the state mandated an 80 percent exemption from local Machinery and Tool Tax (M&T) for solar projects greater than 5 megawatts (MW) in energy capacity. Legislators, recognizing the impact this could have on local revenues and wary of providing the tax subsidy in perpetuity, set an expiration date for the exemption. Specifically, for projects greater than 20 MW the mandatory exemption expires for any project that has not begun construction by January 1, 2024. Four years in advance of the expiration, the utility-scale solar construction industry wants to extend this exemption an additional six years.

It would be beneficial to return the authority to localities to determine local tax incentives for utility-scale solar installations. State-mandated tax exemption on local property taxes for solar equipment should not be expanded or extended.

Legislation in 2018 returned this authority to localities for projects 150 MW or larger in capacity in advance of the 2024 expiration date.

KEY POINTS

- Many counties are concerned about the loss of valuable farm and forest land, critical to local economies. Solar facilities generating greater than 20 MW and less than 150 MW in generating capacity can occupy anywhere from several hundred acres to more than two square miles and are in effect largescale power plants with oversized footprints.
- HB 1131, HB 1434 and SB 762, SB 763 extend a state-mandated exemption from local tax. This extension of a mandated subsidy from local revenues will result in significant loss of future revenues that would otherwise be utilized to fund state-mandated services such as education, police, and human services.

House, Senate taking different approaches to collective bargaining

The House of Delegates is moving forward with legislation that would repeal the prohibition on collective bargaining by public employees while the Senate is considering a bill that would permit localities to adopt ordinances to allow their employees to bargain collectively.

[HB 582](#) (Guzman) repeals the existing prohibition on collective bargaining by public employees. The bill creates a “Public Employee Relations Board” that would determine bargaining units and provide for certifications and decertification elections for bargaining representatives of state and local government employees. HB 582 is on the House floor and has been passed by for two days.

Please contact your member(s) of the House of Delegates to urge the defeat of this bill.

KEY POINTS

- Efforts to impose collective bargaining and public unionization will increase the cost of government and impose more bureaucracy in local government operations. This means that employee relations will be more adversarial.
- Local governments are not like private businesses in the following important ways:
- Budgetary decisions, including budget actions affecting public employee compensation, are done in public with required public notice.
- Budget proposals are available for public review and public comment.
- The people who make the decisions about budgets – the elected officials – are accountable to their residents.
- This is the opposite of private businesses, which do not have to disclose compensation decisions and whose board members are not available to employees regarding budgetary and compensation decisions – other than through unions.
- Local governments, unlike private businesses, are accountable to taxpayers. Taxpayers can and do approach their local governing bodies about employee compensation – particularly teachers and public safety personnel.
- Local governments are required by the Code of Virginia to have approved grievance procedures, to provide certain benefits and provide transparency in their governing processes and procedures.
- The bills would require collective bargaining even if only 30 percent of employees had joined a union. This means that 30 percent of employees can force collective bargaining on the entire organization or component thereof.
- Wages, hours, and other terms and conditions of employment would be subject to collective bargaining.
- The union would have to be given up to 30 minutes to address new employees and employees would be required to attend.
- Union representatives would have the right to meet with employees during the workday and the right to communicate with employees through the employer’s email system.
- The state board charged with administering the act would have only three members: One management representative, one union representative and one member of the public. There would be no guarantee that local governments would be represented on the board.

In the Senate, [SB 939](#) (Saslaw) gives the authority to local governments to adopt ordinances to allow collective bargaining by their employees. Employees in those localities would continue to be prohibited from striking. SB 939 is in the Senate Finance and Appropriations Committee but has not yet been heard. SB1022 (Boysko) was the companion to HB582, but that bill did not move forward. Boysko is now listed as the co-patron of SB939.

Presumptive illness legislation entails significant local fiscal impacts

[SB 561](#) (Vogel) deals with post-traumatic stress disorder incurred by a firefighter or law-enforcement officer. A qualifying event is one which occurs after July 1, 2020 in which an officer:

- Views a deceased minor
- Witnesses the death of a person or an incident involving death of a person
- Witnesses an injury to a person who subsequently dies before or upon admission at a hospital as a result of the injury
- Has physical contact with and treats an injured person who subsequently dies before or upon admission at a hospital as a result of the injury
- Transports an injured person who subsequently dies before or upon admission at a hospital as a result of the injury
- Witnesses a traumatic physical injury that results in the loss of a vital body part or a vital body function that results in a permanent disfigurement of the victim

The diagnosis must be from a board-certified psychiatrist or a psychologist license under Virginia Title 54.1 with prior experience and requires training to be created.

[HB 438](#) (Heretick) is similar but has a broader definition of law enforcement officer to include Department of Game and Inland Fisheries, Department of Emergency Management hazardous materials officers, ABC, the Port Authority and some airports authorities. Qualifying events include events after July 1, 2020 in the following categories:

- Result in serious bodily injury or death to any person or persons
- Involve a minor who has been injured, killed, abused, or exploited
- Involve an immediate threat to life of the claimant or another individual
- Involve mass casualties
- Respond to crime scenes for investigation

The diagnosis must be from a mental health professional and the officer/firefighter complied with OSHA standards. Various training requirements are also imposed.

[HB 783](#) (Askew) / [SB 9](#) (Saslaw) relate to workers' compensation presumption of compensability for certain diseases by firefighters or other law enforcement officers. Colon, brain or testicular cancers are added to the presumptions. The additional cancer presumptions apply for diagnosis made after July 1, 2020. The bills remove the requirement that exposure to a toxic substance must be shown. To be compensable for the presumption, an individual must have completed 5 years of service.

Both bills have passed their respective chambers.

Troubling mandate for Commonwealth's Attorneys and public defender's salaries

[HB 869](#) (Bourne) requires the governing body of any county or city that elects to supplement the compensation of the attorney for the Commonwealth, or any of their deputies or employees, above the salary of any such officer, deputy, or employee, to supplement the compensation of the public defender, or any of his deputies or employees, in the same amount as the supplement to the compensation of the attorney for the Commonwealth, or any of his deputies or employees.

The legislation is particularly troubling for multiple reasons:

- If any locality supplements their Commonwealth's Attorney's salary – as many if not most localities do – this creates an unfunded mandate requiring that they also supplement their Public Defender's salary.
- Commonwealth's Attorneys are independently elected, constitutional officers, while public defenders are state employees. Requiring local governments to fund state employees sets a dangerous precedent.

- Despite the bill’s intention to be purely prospective, the legislation lacks clarity about grandfathering current local supplements for Commonwealth’s Attorneys or what happens in the future if a public defender’s office opens in a locality that previously did not have one.
- The legislation lacks clarity on how to properly address Commonwealth’s Attorney’s offices or public defender’s offices that are shared by multiple localities.

This bill is in the House Courts of Justice Committee.

Local authority over monuments

[SB 183](#) (Locke) allows a locality to remove, relocate, contextualize, cover, or alter any monument or memorial on 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.

The bill is currently on the Senate floor.

“Ban the Box” bill moves forward

[HB 757](#) (Aird) prohibits localities from inquiring about arrests, charges or convictions on employment applications. The original bill allowed an exception for state government for sensitive positions but had no exception for local governments.

At VML’s request, the language in this “Ban the Box” bill was amended to allow the question for law-enforcement agency positions or positions related to such, positions for employment by the local school board, sensitive positions or any employment-related applications or questionnaires provided during or after a staff interview. Sensitive positions are defined as persons responsible for the health, safety and welfare of citizens or protection of critical infrastructure, person that have access to sensitive information and others required by state or federal law to be designated as sensitive.

The bill has passed the House and has been referred to the Senate Committee on General Laws and Technology.

KEY POINTS

- Allowing local governments to inquire about arrests or convictions at the initial application for sensitive positions is a commonsense, needed provision.
- VML would prefer that the legislation be at local option, similar to the 2018 legislation by Senator Dance ([SB 252](#)).
- Virginia Code [Section 22.1-296.1](#) requires that localities inquire about criminal history on their applications for employment for certain school employees, which is in direct conflict with this bill.
- The bill contains this language, which affords protection for localities: “Nothing in this section shall prevent a locality from considering information received during or after a staff interview pertaining to a prospective employee having been arrested for, charged with, or convicted of any crime.”

Three FOIA bills of note

VML supports [HB 321](#) (Levine), which allows a member of a public body to miss a meeting due to the serious medical condition of an immediate family member. Further, the bill extends the provision that permits governing body members to participate in an electronic meeting due to personal matters by allowing them to participate for up to two meetings per calendar year or 10 percent of the meetings held each year (whichever is greater).

VML supports the bill, which is on the House floor. Please urge a “yes” vote by House and Senate members!

KEY POINTS

- The bill is narrowly drawn to allow governing body members to miss a meeting due to the illness of an immediate member of the family.
- The language regarding electronic participation due to personal reasons reflects the fact that some governing bodies meet more frequently than others.

[SB 977](#) (Suetterlein) requires a governing body to provide members of the general public with the opportunity for public comment during at least half of the regular meetings held each fiscal year. The bill has passed the Senate and will most likely be heard after crossover by the [House Counties, Cities & Towns Committee](#).

[SB 153](#) (Stuart) provides that if a requester asks for a cost estimate in advance of a FOIA request, the time to respond is tolled for the amount of time that elapses between notice of the cost estimate and the response from the requester (e.g. the clock starts ticking on the response time when the requester responds). If the public body receives no response from the requester within 30 days of sending the cost estimate, then the request shall be deemed to be withdrawn. The bill clarifies that if a cost estimate exceeds \$200 and the public body requires an advance deposit, the public body may require the requester to pay the advance deposit before the public body is required to process the request.

The bill, which is a recommendation of the Freedom of Information Advisory Council, has passed the Senate.

KEY POINT

- The bill clarifies when the clock starts ticking on requests that involve cost estimates.

Variety of anti-discrimination bills are working their way to passage

[HB 1514](#) (McQuinn) and [SB 50](#) (Spruill) provides that the terms “because of race” and “on the basis of race” includes traits historically associated with race, including hair texture, hair type and protective hairstyles such as braids, locks and twists. The bills have passed their respective house of origin.

[HB 7](#) (Bourne) and [SB 97](#) (McClellan) confirms that unlawful discriminatory practices include discrimination in the application of local land use ordinances or guidelines, or in the permitting of housing developments. Discrimination includes the basis of race, color, religion, national origin, sex, elderliness, familial status, handicap or because the housing development contains or is expected to contain affordable housing units. HB 7 has passed the House. SB 97 is in the [Senate Finance and Appropriations Committee](#).

[HB 1663](#) (Sickles) prohibit discrimination on the basis of age, sex, race, color, religion, national origin, pregnancy, childbirth, related medical condition, marital status, sexual orientation, gender identity, status as a veteran, disability or childbirth. This includes discrimination in the workplace, public accommodations, credit, housing; it also creates a cause of action. HB 1663 is on the House floor. A similar bill was stricken in the Senate earlier in the session.

[HB 696](#) (Roem) allows localities to prohibit discrimination in housing, employment, public accommodations, credit and education on the basis of sexual orientation and gender identity. The bill is on the House floor.

Staffing and funding levels for Commonwealth’s Attorneys under consideration

Senate bill has been continued to 2021 legislative session

[SB 803](#) (Morrissey) and [HB 1035](#) (Simon) would review and drastically revise funding and staffing levels for Commonwealth’s Attorneys. SB 803 has been continued to the 2021 legislative session for a study of the issue over the next year. In the other chamber, HB 1035 is in a subcommittee of the House Courts of Justice Committee.

As introduced, the legislation would:

- Prohibit the Compensation Board, when determining staffing and funding levels for offices of attorneys for the Commonwealth, from (i) considering the number of charges brought or the number of convictions obtained by such attorney for the Commonwealth; (ii) relying on standards devised or recommended by the attorney for the Commonwealth, law-enforcement agencies, or professional associations representing attorneys for

the Commonwealth or law-enforcement officers; or (iii) using measures that increase if an attorney for the Commonwealth (a) elects to prosecute a more serious charge, (b) elects to prosecute additional charges from a single arrest or criminal incident, (c) obtains convictions rather than dismissing charges or offering reduced charges, or (d) proceeds with prosecution rather than diversion.

- Require Attorneys for the Commonwealth to pay all fees collected by them in consideration of the performance of official duties or functions into the state treasury, instead of only half of such fees.
- Require the State Treasurer to pay to the treasuries of the respective counties and cities of the attorneys for the Commonwealth a proportion of half of all such fees collected by all attorneys for the Commonwealth, as determined by each county or city's crime rate, criminal incident rate, or arrest rate.
- Change the fees collected by attorneys for the Commonwealth on trials of felony indictments from \$40 on each count to \$120 for each trial of a Class 1 or Class 2 felony indictment, or other felony that carries a possible penalty of life in prison, except robbery, and \$40 for each trial on robbery and all other felony indictments regardless of the number of counts.

Unfunded mandate for deputy sheriffs' salaries defeated for the year

[HB 1302](#) (Hurst) and [SB 1085](#) (Pillion) would have required an increase in minimum salaries for deputy sheriffs. SB 1085 was stricken. HB 1302 was continued to the next session.

These bills provided that the minimum salary for all deputy sheriffs, law enforcement and non-law enforcement, shall be set at the compensation board minimum plus a 20 percent supplement. This supplement would have required localities to foot the bill unless that locality was designated as high or above average according to the Commission on Local Government's Fiscal Stress Index as of July 1, 2020. For those localities at high or above average fiscal stress, the bill directed the Commonwealth to pay the entire sum of the difference between the current salary paid and the new required minimum. For those localities not at high or above average fiscal stress, however, the cost fell directly to them and would have resulted in a total fiscal impact of millions of dollars

Local government lobbying disclosure bill fails for the year

A bill seeking to create new disclosure requirements and a registration system for persons who lobby local government died in committee by a margin of only 1 vote.

[SB 383](#) (McPike) generated concerns as to how broadly lobbying action was defined as well as the cost and burden of setting up and maintaining a registration system within local governments.

Bills address local authority regarding firearms

Bills in the House and Senate addressing local authority over weapons in public buildings/facilities have passed their respective bodies and have moved to the other body:

[SB 35](#) (Surovall) incorporates four other Senate bills ([SB 450](#), [SB 505](#), [SB 506](#), and [SB 615](#)) regarding the authority of local governments by ordinance to prohibit the possession or carrying of firearms, ammunition or components/combination thereof in:

- 1) any building or part of a building owned or used by a locality (i.e., leased space) for governmental purposes;
- 2) any public park owned by the locality; or
- 3) in any public street, road, alley, sidewalk or public right-of-way or place open to the public and is being used or is adjacent to a permitted event or event that would otherwise require a permit.

The bill allows the local ordinance to include security measures (e.g., metal detectors, increased security) to prevent unauthorized access by individuals possessing firearms, etc., to governmental buildings, public parks and public facilities used for or adjacent to permitted events.

A locality would be required to post notice at building/facility entrances regarding the ordinance prohibiting firearms.

The bill repeals any provisions limiting local and state governmental entities to bring lawsuits against certain firearms manufacturers and others.

Finally, the bill provides that any firearm received by the locality pursuant to gun buy-back programs be destroyed by the locality unless the person surrendering the firearm requests in writing that the surrendered firearm be sold.

This bill has passed the Senate and now moves to the House.

[HB 421](#) (Price) is much broader than SB 35. It gives localities the authority to adopt or enforce an ordinance, resolution, or motion governing the possession, carrying, storage or transporting of firearms, ammunition, or components/combination thereof in the locality (not just in a local government building, facility, park or public space adjacent to or being used for a permitted event as in SB 35). Like SB 35, it repeals various provisions limiting local authority as well as provisions limiting the authority of localities and state government to bring lawsuits against certain firearms manufacturers and others.

This bill also provides an exception to the requirement that an ordinance enacted regarding the disposition of certain firearms acquired by localities must provide that any firearm received be offered for sale by public auction or sealed bids to a licensed dealer. The bill allows a local ordinance to provide that if the person surrendering the firearm requests in writing that the firearm be destroyed, that the locality will destroy the firearm.

This bill has passed the House and now moves to the Senate for consideration.

Since the two bills have some significant differences, they will have to either conformed, or put into conference to work out the differences.

General government bills abound

[SB 746](#) (Bell) extends 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. The bill passed the Senate on a 35-5 vote.

[HB 452](#) (Murphy) is a great bill for localities that raises the small purchase procedure threshold from \$100,000 to \$200,000 for goods and services other than professional services and non-transportation-related construction.

[HB 890](#) (Sickles) raises the threshold for use of construction management or design-build by local public bodies from the current \$10 million to the project cost threshold established in the procedures adopted by the Secretary of Administration for use of construction management or design-build contracts.

[HB 554](#) (Van Valkenburg) deals with wireless communications infrastructure and allows the locality to disapprove an application if the applicant has not given written notice to adjacent landowners at least 15 days before it applies to locate a new structure in the area. The bill is on the House floor.

[HB 760](#) (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. The bill is in the House Counties, Cities and Towns Committee.

[SB 465](#) (Reeves) expands the scope of permitted in-kind donations by a locality to a voluntary or nonprofit emergency medical services agency to include contract management services for capital projects; assistance in preparing requests for information, bids, or proposals; and budgeting services. The bill has passed the Senate.

[SB 645](#) (Surovell) relates to procurement contracts for goods and services; it requires the locality to include in the solicitation that the bidder disclose information regarding pre-dispute arbitration clauses. In the evaluation of bids, the locality shall consider each bidder's policies and practices related to arbitration as disclosed. This is a pre-arbitration agreement bill which requires every public body to ask for every procurement decision if the bidder requires employees to sign "pre-arbitration" agreements and then take that into account in deciding who to award the bid to. The bill has passed the Senate.

[HB 1300](#) (Hurst) and [SB 195](#) (Cosgrove) make changes in the statute of limitations on actions on construction contracts, including construction management and design-build. For example, the introduced bills provided that no action may be brought by a public body on any construction contract unless the action is brought within five years after completion of the work on the project and that no action may be brought by a public body on a warranty or guaranty in the construction contract more than one year from the breach of that warranty, but in no event more than one year after the expiration of such warranty or guaranty. HB 1300 is in the House Courts of Justice Committee and SB 195 is in the Judiciary Committee.

[HB 1213](#) (Heretick) permits localities to appoint and train local government employees to enforce local ordinances by issuing summonses for violations of ordinances that are within the purview of the employee's employment. The bill is on the House floor.

[HB769](#) (LaRock) provides an affirmative defense to anyone who is the subject of an action by a locality for a violation of an ordinance that is not codified and therefore no adequate notice was provided. This bill was reported to the floor of the House but on February 5 was rereferred to Courts of Justice where it may meet its fate.

Elections

Legislation would establish state-level “preclearance” for local election practices

[HB 761](#) (VanValkenburg) would subject certain localities to preclearance requirements similar to those previously imposed under Section 5 of the Voting Rights Act of 1965. Any locality with a voting-age population containing two or more racial or ethnic groups, each constituting at least 20 percent of the voting-age population, would have to either seek a declaratory judgment or submit an application to the Virginia Office of the Attorney General at least 60 days prior to implementing a variety of voting practices or procedures. Either of these actions would be designed to confirm that any changes would have no negative impact on the voting rights of a specific minority group.

KEY POINTS

- HB 761 holds localities to a higher standard than the state and implements rules that the Supreme Court deemed unconstitutional in 2013 (*Shelby County v. Holder*).
- Preclearance increases the cost and time required for localities to make even minor changes, including the relocation or consolidation of polling places.

Resources needed for successful implementation of early voting

[HB 1](#) (Herring) and [SB 111](#) (Howell) eliminate the current list of excuses required to cast an absentee ballot and require that in-person no-excuse absentee voting be available from the 45th day before the election through the Saturday immediately preceding an election, with some flexibility in the case of a special election. When taken in combination with [SB 617](#) (Deeds), which offers localities the option to establish satellite offices for in-person absentee voting by ordinance, general registrars estimate the total cost of implementation for early voting to range between \$14 million and \$19 million in the first year.

Delegate VanValkenburg and Senator Deeds have submitted budget amendments for \$250,000 and \$5 million, respectively, per year to help address these needs.

KEY POINTS

- Please talk with members of the House Appropriations and Senate Finance and Appropriations Committees about the need for resources so that early voting can be successfully implemented.
- High turnout and intense scrutiny of election processes can be expected in the November 2020 election, which will be the first time no-excuse absentee voting is in effect in Virginia. Localities need some assistance with the logistics of early voting – largely equipment and staffing costs – in order to meet the shared goal of a successful election.

Other elections bills of interest

[SB 535](#) (Peake) would establish a process to address situations where there is a discrepancy between the boundary line for a Congressional or state legislative district and the boundary traditionally used by neighboring localities.

[HB 381](#), (Cole, M.) in addition to providing for a process by which the Virginia Redistricting Commission would develop plans for General Assembly and Congressional districts, would require the establishment of local redistricting commissions in localities in which governing bodies are elected from wards.

[HJ 3](#) (Cole, M.) would amend the Constitution to clarify that any technical adjustment made to district lines to correct errors or make small adjustments that “reunite” split precincts is permissible.

[SB 740](#) (Obenshain) would require localities to make changes to local precinct lines after the completion of General Assembly redistricting in order to ensure that no precincts are split; the governing body could apply to the State Board of Elections for a waiver to operate a split precinct if local lines could not be drawn so as to avoid operating a precinct with fewer than the statutory minimum number of voters (100 in a county and 500 in a city).

[HB 220](#) (Krizek) would require an absentee ballot to be sent with prepaid postage. This bill is on the House floor.

[HB 1643](#) (Ayala) / [HB 1678](#) (Lindsey) would extend the close of polling hours on Election Day from 7:00 to 8:00 p.m.

[HB 57](#) (Fowler) / [SB 316](#) (Kiggans) would delay the June primary date from the second Tuesday to the third Tuesday in June. These bills have passed their respective originating chambers.

[HB 108](#) (Lindsey) / [SB 601](#) (Lucas) would designate Election Day as a state holiday and eliminate Lee-Jackson Day as a state holiday. SB 601 has passed the Senate; HB 108 is on the House floor.

[HB 216](#) (Helmer) as reported by House Privileges and Elections, would require that no method of nominating candidates could be used if such method has the effect of excluding participation by active duty military or others temporarily residing outside of the country, students attending institutions of higher education, or individuals with disabilities, with certain exceptions.

[HB 1103](#) (Hudson) would authorize the use of ranked-choice voting in local board of supervisors or city council races, effective July 1, 2021.

Transportation

Big transportation funding bills in play

[HB 1414 \(Filler-Corn\)](#) / [SB 890 \(Saslaw\)](#) increase transportation funding by 2024 through a 12-cent increase in gasoline taxes by 2024 and implement a new fee on fuel efficient vehicles. These bills, which are supported by the Administration, seek to address declining growth in transportation revenues over time to meet increasing demands for new construction and maintenance of existing transportation infrastructure.

These omnibus bills will, if passed, generate over \$350 million annually for transportation, including:

- \$55 million for road maintenance (city streets, primary and secondary roads)
- \$80 million for construction (SMART SCALE)
- \$125 million for Transit (transit capital needs from expiration of CPR bonds in 2018)
- \$30 million for the Northern Virginia Transportation Authority.

HB 1414 includes measures to improve road safety that are identical to a separate Senate companion, [SB 907](#) (Lucas). This legislation would:

- Increase local authority to reduce speed limits below 25 mph in residential and business districts
- Ban the use of cellphones while driving
- Mandate the use of seatbelts by all vehicle passengers
- Ban open alcohol containers in motor vehicles.

Both bills create a new Virginia Passenger Rail Authority that will be able to acquire rail rights of way and contract out the operations of rail service with the goal of expanding passenger rail access across the Commonwealth.

Differences:

- HB 1414 reduces the motor vehicle registration fee and holds local registration fees harmless; SB 890 does not address registration fees.
- HB 1414 also proposes reducing vehicle state inspections to once every two years; SB890 does not change the frequency of state inspections.
- SB890 increases the number of representatives on the Virginia Passenger Rail Authority Board from Hampton Roads and Southwestern Virginia.

See the chart at the end of this section for full details on each piece of legislation.

Central Virginia Transportation Authority bill

[HB 1541 \(McQuinn\)](#) creates the Central Virginia Transportation Authority, composed of the counties and cities located in Planning District 15 (Goochland, Powhatan, Chesterfield/Colonial Heights, Henrico, Hanover, New Kent, Charles City, Richmond City). The authority will administer transportation funding generated through the imposition of an additional regional 0.7 percent sales and use tax and 2.1 percent wholesale gas tax. 35 percent of funds retained by the Authority are to be used for transportation-related purposes benefiting the member localities, 15 percent shall be distributed to the Greater Richmond Transit Company (GRTC) for transit and mobility services, and 50 percent will be returned proportionately to the each member locality to improve local mobility. This authority follows similar authorities created in Northern Virginia and Hampton Roads.

Hampton Roads Authority funding

[SB 1038](#) (Lucas and Locke) allows the Hampton Roads Accountability Commission (HRTAC) to use funds for regional transit. This bill authorizes HRTAC to raise additional funds through an increase in wholesale fuel taxes of 1.9 % for gasoline and 0.9% on diesel. This will provide greater funding and authority to invest in regional bus transit.

The bill passed out of committee with a unanimous vote and is currently on the Senate floor.

Distracted driving bills moving forward

[HB 874](#) (Bourne) / [SB 160](#) (Surovell) prohibit distracted driving, including holding a handheld device while driving a motor vehicle. SB 160 includes language about an advisory council to monitor the effectiveness and enforcement of distracted driving. This concept was agreed to over the summer. The bills have passed their respective chambers.

Appendix: Chart detailing transportation funding bills

Differences are highlighted.

House Bill 1414 (Filler-Corn)	Senate Bill 890 (Saslaw) and SB907 (Lucas)
<p>Safety</p> <p>Bans open containers of alcohol in motor vehicles</p> <p>Mandates all vehicle occupants wear seat belts and violations are considered a primary offense</p> <p>Authorize speed photo monitoring in highway safety corridors</p> <p>Expands local authority to all political subdivisions to decrease speed limits in residential and business areas below 25 mph</p> <p>Bans the use of a cellphone while driving</p>	<p>Safety</p> <p>Bans open containers of alcohol in motor vehicles</p> <p>Mandates all vehicle occupants wear seat belts and violations are considered a primary offense</p> <p>Authorize speed photo monitoring in highway safety corridors</p> <p>Expands local authority to all political subdivisions to decrease speed limits in residential and business areas below 25 mph</p> <p>Bans the use of a cellphone while driving</p>
HB1414	SB890
<p>Statewide Revenue</p> <p>Increase Gasoline and diesel fuel to 28.2 cents/gallon over 3-years</p> <ul style="list-style-type: none"> Converts the tax to a cents/gallon tax Tax is then indexed to inflation in the final year. <p>Levy a “highway use fee” for fuel efficient and electric vehicles</p> <ul style="list-style-type: none"> Fee is 85% of the difference in gas tax collected from an “average fuel economy” vehicle in a year and the vehicle subject to the fee <p>OR</p> <p>Optionally participate in in a “mileage-based user fee” program, this fee cannot exceed the “highway use fee”</p> <p>Decrease Motor Vehicle Registration fees by \$20 (locality vehicle registration fees held harmless)</p>	<p>Statewide Revenue</p> <p>Increase Gasoline and diesel fuel to 28.2 cents/gallon over 2-years</p> <ul style="list-style-type: none"> Converts the tax to a cents/gallon tax Tax is then indexed to inflation in the final year. <p>Levy a “highway use fee” for fuel efficient and electric vehicles</p> <ul style="list-style-type: none"> Fee is 85% of the difference in gas tax collected from an “average fuel economy” and the vehicle subject to the fee <p>OR</p> <p>Optionally participate in in a “mileage-based user fee” program, this fee cannot exceed the “highway use fee”</p>

<p>Regional Revenues - \$30 million for NVTA</p> <p>Index regional fuels taxes to the Consumer Price Index starting 7/1/2022</p> <p>Applies to jurisdictions in: Northern Virginia Transportation Commission, Potomac Rappahannock Transportation Commission, Hampton Roads Transportation Accountability Commission, I-81 Planning Districts)</p> <p>Northern Virginia - \$30 million for NVTA</p> <p>Increase Grantor’s tax to 20 cents per \$100</p> <p>Decreases existing rate levied from 15 to 10 cents</p> <p>Creates a separate grantor’s tax of 10 cents for congestion mitigation</p> <p>Increase Transient Occupancy Tax (Hotels) from 2% to 3%</p>	<p>Regional Revenues - \$30 million for NVTA</p> <p>Index regional fuels taxes to the Consumer Price Index starting 7/1/2022</p> <p>Applies to jurisdictions in: Northern Virginia Transportation Commission, Potomac Rappahannock Transportation Commission, Hampton Roads Transportation Accountability Commission, I-81 Planning Districts)</p> <p>Northern Virginia - \$30 million for NVTA</p> <p>Increase Grantor’s tax to 20 cents per \$100</p> <p>Decreases existing rate levied from 15 to 10 cents</p> <p>Creates a separate grantor’s tax of 10 cents for congestion mitigation</p> <p>Increase Transient Occupancy Tax (Hotels) from 2% to 3%</p>
<p>Motor Vehicle State Inspection Program</p> <p>Every other year</p>	<p>Motor Vehicle State Inspection Program</p> <p>Every year, no change from current law</p>
<p>Statewide Programs</p> <p>Interstate Operations and Enhancement Program authorizes issuance of bonds for I-81 improvements authorized by 2019 General Assembly</p> <p>Transit Incentive Program to improve transit in urban areas with a population greater than 200,000 by encouraging the development of:</p> <ul style="list-style-type: none"> • Routes of regional significance • Regional funding models for transit • Bus-only lanes, and • Fare integration (25% of these funds are for reducing fares for low income persons). <p>Special Structures Program established to implement fund approved by 2019 General</p>	<p>Statewide Programs</p> <p>Interstate Operations and Enhancement Program authorizes issuance of bonds for I-81 improvements authorized by 2019 General Assembly</p> <p>Transit Incentive Program to improve transit in urban areas with a population greater than 200,000 by encouraging the development of:</p> <ul style="list-style-type: none"> • Routes of regional significance • Regional funding models for transit • Bus-only lanes, and • Fare integration (25% of these funds are for reducing fares for low income persons). <p>Special Structures Program established to implement fund approved by 2019 General</p>

<p>Assembly to improve certain capital-intensive bridges and tunnels</p> <p>Regional Programs</p> <p>I-81 Corridor Improvement Program</p> <ul style="list-style-type: none"> • Commonwealth Transportation Board will develop a project prioritization process for selecting I-81 improvements • Corridor Q – Allows bonds authorized for Rt. 58 to be used to complete final Corridor Q section with Grundy 	<p>Assembly to improve certain capital-intensive bridges and tunnels</p> <p>Regional Programs</p> <p>I-81 Corridor Improvement Program</p> <ul style="list-style-type: none"> • Commonwealth Transportation Board will develop a project prioritization process for selecting I-81 improvements • Corridor Q – Allows bonds authorized for Rt. 58 to be used to complete final Corridor Q section with Grundy
<p>Establish the Virginia Rail Authority</p> <p>Establishes the Virginia Rail Authority as an Independent State Authority to expand passenger rail services.</p> <ul style="list-style-type: none"> • Can acquire and own property and contract for passenger rail service • Sales of land valued greater than \$5 million must be approved by the Commonwealth Transportation Board <p>Receives 91.5% of revenues from the Commonwealth Rail Fund</p> <p>Board composition will be 8 voting, 2 non-voting members.</p> <ul style="list-style-type: none"> • 2 members from jurisdictions within each of the following: NVTC, PRTC, RMTA • 1 member from jurisdictions within each of the following • HRTAC and Planning Districts 5, 9, 10, or 11 • Director of DRPT, can only vote to break a tie • Amtrak representative who cannot vote <p>Has powers of eminent domain similar to the Commonwealth Transportation Board and VDOT</p>	<p>Establish the Virginia Rail Authority</p> <p>Establishes the Virginia Rail Authority as an Independent State Authority to expand passenger rail services.</p> <ul style="list-style-type: none"> • Can acquire and own property and contract for passenger rail service • Sales of land valued greater than \$5 million must be approved by the Commonwealth Transportation Board <p>Receives 91.5% of revenues from the Commonwealth Rail Fund</p> <p>Board composition will be 8 voting, 2 non-voting members</p> <ul style="list-style-type: none"> • 3 members from jurisdictions within each of the following: NVTC, PRTC, RMTA • 2 members from jurisdictions within HRTAC • 2 members representing Planning Districts 5, 9, 10, or 11 • Director of DRPT, can only vote to break a tie • Amtrak representative who cannot vote <p>Has powers of eminent domain similar to the Commonwealth Transportation Board and VDOT</p>

<p>to acquire property.</p> <p>Contract out operations and concessions,</p> <p>Issue revenue bonds by a vote of 6 of the 8 Board members</p> <p>Can use inside the beltway I-66 revenues as revenue for repayment of bonds</p> <p>Can issue bonds for upgrading Potomac River crossings including the outdated Long Bridge Potomac rail crossing</p> <p>Rail Authority pre-empts local authority and local zoning ordinances are not applicable to “rights-of-way transferred to the Authority from a railroad”</p> <p>Exempted from Virginia Personnel Act and Virginia Public Procurement Act.</p>	<p>to acquire property</p> <p>Contract out operations and concessions,</p> <p>Issue revenue bonds by a vote of 6 of the 8 Board members</p> <p>Can use inside the beltway I-66 revenues as revenue for repayment of bonds</p> <p>Can issue bonds for upgrading Potomac River crossings including the outdated Long Bridge Potomac rail crossing</p> <p>Rail Authority pre-empts local authority and local zoning ordinances are not applicable to “rights-of-way transferred to the Authority from a railroad”</p> <p>Exempted from Virginia Personnel Act and Virginia Public Procurement Act.</p>
<p>Code of Virginia</p> <p>Restructure and simplify transportation revenue streams, transportation and related funds, and fund distributions.</p>	<p>Code of Virginia</p> <p>Restructure and simplify transportation revenue streams, transportation and related funds, and fund distributions.</p>

Estimated New funding	
\$135 million	Road Funding
\$55.6 million	Maintenance <i>Of this, \$44 million in Interstate and Secondary Highways and \$11.7 million in Urban Maintenance</i>
\$80 million	Construction
\$125 million	Transit
\$18.7 million	Rail

PFAS bills move through the House

Two bills seeking to study and address certain chemical contaminants in Virginia's drinking water have passed the House. Both bills attempt to focus on the growing concern over the threats of PFAS chemicals (which is the colloquial term for per- and polyfluoroalkyl substances) being linked to various medical ailments.

[HB 586](#) (Guzman) directs the Commissioner of Health to convene a work group to study the occurrence of the PFAS in public drinking water and to develop recommendations for specific maximum contaminant levels to be included in regulations of the Board of Health applicable to waterworks.

The bill has passed the House and has been referred to the Senate Committee on Education and Health.

The second bill, [HB 1257](#) (Rasoul), directs the State Board of Health to adopt regulations establishing maximum contaminant levels (MCLs) in public drinking water systems for various chemicals. The bill requires such MCLs to 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 for the same contaminant. The bill directs the Board to consider certain studies in adopting such MCLs and to consider establishing other MCLs any time two or more other states set limits or issue guidance on a given contaminant.

HB 1257 has encountered more issues than HB 586, primarily because it attempted to require – not permit as necessary – the Board to establish MCLs, regardless of any state findings about them. As such, HB 1257 has been altered several times, ultimately resulting in amendments that delay its enactment until January 1, 2022 and including new language that stipulates that MCLs will only be enacted as deemed necessary.

HB 1257 has passed the full House and will be heard in the Senate Education and Health Committee.

DEQ stakeholder group to study tree preservation

[HB 520](#) (Bulova) directs the Department of Environmental Quality (DEQ) to convene a stakeholder advisory group for the purpose of studying the planting or preservation of trees as a land cover type and as a stormwater best management practice (BMP). The DEQ is to report the group's findings by November 1, 2020, and to include a recommendation as to whether the planting or preservation of trees shall be deemed a creditable land cover type or BMP and, if so, how much credit shall be given for its optional use. Stakeholders include development and construction industry representatives, environmental technical experts, local government representatives, and others.

HB 520 was the result of several months of stakeholder (including VML) conversations and negotiations about urban forestry and ways local governments could embrace tree preservation or replanting as a potential stormwater BMP and help meet the goals of the Chesapeake Bay Phase III Watershed Implementation Plan.

HB 520 passed the House of Delegates by a vote of 82-17 and will be heard in the Senate Committee on Agriculture, Conservation and Natural Resources. By letter, numerous other bills were added to the study. These include [HB 221](#), [HB 1045](#), and [HB 1624](#).

Virginia Food Access Investment Fund

[HB 1509](#) (McQuinn) and [SB 1073](#) (McClellan) create the Virginia Food Access Investment Program and Fund (VFAIF) to provide funding for the construction, rehabilitation, equipment upgrades, or expansion of grocery stores, small food retailers, and innovative food retail projects in underserved communities. The VFAIF has two components, one focusing on infrastructure and one focusing on nutrition efforts.

Through a selected Community Development Financial Institution, the VFAIF would provide funding for small food retail projects in underserved communities.

On the nutrition incentive side, the Virginia Department of Agriculture and Consumer Services would partner with public and private sector partners to increase the number of Supplemental Nutrition Assistance Program (SNAP) retailers who participate in the Virginia Fresh Match Incentive Program. The Incentive Program provides SNAP recipients with a \$1 to \$1 match for nutritious fruits and vegetables.

SB 1073 was set to pass the Senate on February 5th. HB 1509 is before the House Committee on Appropriations.

Statewide commercial PACE program advances

Legislation introduced by Delegate Nancy Guy to establish a mechanism for a statewide clean energy and energy efficiency financing program has advanced to the full House of Delegates.

[HB 654](#) (Guy) authorizes the Department of Mines, Minerals and Energy (DMME) to sponsor a statewide clean energy financing program. More specifically, this legislation would enable DMME to engage with a private entity in order to develop and administer a statewide commercial Property Assessed Clean Energy (PACE) program.

HB 654 will be taken up on the House floor later this week.

Bill requiring additional reporting for discharges of deleterious substances into state waters passes House, heads to Senate

[HB 1205](#) (Tran) requires that the Department of Environmental Quality (DEQ) shall provide to the Virginia Department of Health (VDH) and local newspapers, television stations, and radio stations, and shall report via official social media accounts and email notification lists, any information pertaining to the discharge of deleterious substances (chemicals, oils, sewage, etc.) into state waters, unless the DEQ determines that the discharge will have a de minimis impact. Current law only requires that the DEQ provide this information to the local newspapers. The notice must be given within 12 hours of a determination by DEQ.

HB 1205 passed the House.

Urban fertilizer program advances

[SB 849](#) (Mason) authorizes local governments to enter into agreements with the Commissioner of the Virginia Department of Agriculture and Consumer Services (VDACS) to provide oversight and data collection assistance related to the requirements of certified lawn fertilizer contractor-applicators. This bill is one of Governor Northam's Chesapeake Bay Watershed Implementation Plan bills and is designed to give a local government the option to work with the Commissioner of VDACS to help administer an urban fertilizer program. It is purely permissive in nature.

The bill also reduces from 100 to 50 the total number of acres of nonagricultural land to which a contractor-applicator may apply lawn fertilizer and lawn maintenance fertilizer annually without submitting an annual report to the Commissioner. The bill also increases from \$250 to \$1,000 the civil penalty imposed on a contractor-applicator for a violation of applicable regulations.

SB 849 was passed unanimously by the full Senate and will now be heard by the House.

Bills also of interest:

[HB 770](#) (LaRock) authorizes a locality that uses goats for the temporary grazing of stream buffers to remain in compliance with a resource management plan for pastureland. This compliance would qualify the locality for matching grants through the Virginia Agricultural Best Management Practices Cost-Share Program. The bill is in the House Committee on Agriculture, Chesapeake and Natural Resources.

Problematic animal shelter bills – A series of troubling bills pertaining to animal shelters have now been heard in House and Senate Committees.

[SB 304](#) (Stanley) requires any public or private animal shelter or releasing agency to report on an annual basis the euthanasia rate for animals at such shelter or agency to the State Veterinarian. As originally introduced, the bill sought to require the State Veterinarian to notify the Board of Pharmacy of any such shelter that has a euthanasia rate greater than 50 percent and prohibit the Board of Pharmacy from registering any such shelter to purchase, possess, or administer certain euthanasia drugs. Senator Stanley ultimately agreed to strip the possible penalties and instead introduced a substitute that solely requires shelters report data on the number of acts of euthanasia performed and the reasons why. As amended, SB 304 reported out of the Senate Committee on Agriculture, Conservation and Natural Resources unanimously.

[SB 310](#) (Stanley) requires a public animal shelter to wait three days before euthanizing a dog or cat when a person has notified the shelter of his intent to adopt or take custody of the animal. The shelter must make reasonable efforts to accomplish the release of the animal but is not required hold the animal if it has reason to believe that the animal has seriously injured a human or the animal meets certain other specified conditions for euthanasia. Recognizing local government concerns about fiscal impact, however, Senator Stanley agreed to strip the three-day requirement from the legislation and instead offered a substitute bill that simply requires each public animal shelter to adopt a policy that provides that when notice has been given to the shelter of the intent of a releasing agency to adopt or take custody of an animal, the animal shall not be euthanized and shall be kept for a certain number of days. With this substitute language, SB 310 reported out of the Senate Committee on Agriculture, Conservation and Natural Resources unanimously.

[HB 1279](#) (O'Quinn) sought to increase from five to 10 the number of days an animal confined by a public or private animal shelter or releasing agency shall be kept prior to disposal of the animal unless sooner claimed by the rightful owner. The bill also increases from five to 10 the number of additional days such animal shall be held if the owner or custodian of the shelter determines that the animal has a collar, tag, license, tattoo, or other form of identification. Ultimately, the House Committee on Agriculture, Chesapeake and Natural Resources decided to kill the bill by laying it on the table.

Economic Development & Land Use

Utility easements

[HB 831](#) (Carroll Foy) / [SB 794](#) (Lewis) attempt to allow broadband in utility easements without just compensation. While the bills have different provisions at this point the goal is the same and that is to expand broadband by using existing easements without just compensation. HB 831 is in the House Labor and Commerce Committee; SB 794 has been reported by committee and is headed to the floor of the Senate.

[HB 554](#) (VanValkenburg) states that an application for any zoning approval of a wireless standard process project (any project other than an administrative review-eligible project) may be disapproved if the applicant has not given written notice to adjacent landowners at least 15 days before it applies to locate a new structure in the area. The bill is on the House floor for final vote.

Zoning & land use

[HB 505](#) (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. Currently, there is not a time limit. This bill has passed the House and is assigned to Senate Local Government.

[HB 1101](#) (Carr) and [SB 834](#) (McClellan) seek to provide more tools to localities regarding affordable housing. It is a permissive bill that would allow a locality to establish qualifying jurisdiction-wide affordable dwelling unit sales prices based on local conditions, establish jurisdiction-wide affordable dwelling unit qualifying income guidelines, and incentives other than density increases, such as reduction or waivers of permit, development and infrastructure fees. Several other provisions are still being discussed and the bills may be further amended as they travel through the General Assembly. HB 1101 is on the House floor; SB 834 has passed the Senate and has been referred to the House Counties, Cities and Towns.

[HB 549](#) (Ward) and [SB 340](#) (Locke) authorize any locality in Planning District 23 or that has a population of at least 75,000 to include provisions for cutting overgrown shrubs, trees, and other such vegetation in an ordinance requiring certain landowners to cut the grass, weeds, and other foreign growth on certain property. The bills have passed their house of origin and moved to the other house.

[SB 647](#) (Boysko) provides for the transition of certain existing development approvals when a subject property shifts from one jurisdiction to another due to annexation, boundary adjustment, or other cause. The bill contains a grandfather clause for certain existing provisions. The bill has passed the Senate.

[HB 929](#) (Coyner) provides certain approved final subdivision plats shall remain valid indefinitely if a recorded plat dedicating real property to the locality has been accepted by such grantee. The bill is on the House floor.

[HB 1052](#) (Levine), [HB 1242](#) (Heretick) and [SB 351](#) (Lucas) would have allowed localities to provide broadband service to their residents. Each bill was struck by the patron after discussion with the industry, but localities are committed to discuss these issues over the summer.

Bills threaten authority of localities to address impacts of large-scale solar

This year the legislature is considering several bills that would limit and restrict local land use authority to address impacts due to the placement and operation of utility-scale solar projects.

[HB 657](#) (Heretick) exempts a solar facility that is 150 megawatts (MW) or less in capacity from the requirement that it be reviewed for substantial accord with a locality's comprehensive plan. A 150-megawatt (MW) project has a footprint of more than two square miles with potential significant impacts to forest, farm and water resources. A substantial accord review is typically a first step in the land use application process for such projects and provides both applicants and localities with guidance on whether the use and its location are appropriate. If the answer is "no" then the applicant and locality can forego the cost and time of a special use or rezoning process. If "yes" then the applicant can choose to apply for any necessary legislative and administrative approvals.

HB 657 is headed to the House floor.

A similar bill, [SB 893](#) (Marsden), was defeated in committee by unanimous vote.

[HB 656](#) (Heretick) restricts the authority of localities to regulate the use of solar panels and solar storage through provisions in local zoning ordinances. Specifically, while the bill seemingly provide an option for localities to include certain industry standards when regulating the “... *use of solar panels and battery technologies*,” a complicated enactment clause usurps local authority by mandating that these standards apply when regulating the use of such technologies, regardless of whether the standards are incorporated in local ordinances.

HB 656 passed committee with a vote of 9 to 1 and is now on the House floor.

A similar bill, [SB 875](#) (Marsden), was amended in the Senate Local Government Committee to remove the requirement included in the enactment clause and is headed to the Senate floor.

Bills reflecting different approaches to harm reduction moving forward

Legislation approved in 2017 – with a 2020 sunset clause – allowed the State Health Commissioner to establish and operate local or regional comprehensive harm reduction programs in areas meeting state criteria regarding the risk/incidence of spreading blood-borne pathogens through shared use of needles. These programs were implemented with approval of affected local governments and local law enforcement. Such programs allowed for needle exchange/safe disposal to discourage the spread of diseases like Hepatitis B and C and HIV.

This session, two types of harm reduction legislation are moving forward. The first type simply removes the sunset clause on the existing state program. The bills are [HB 378](#) (Rasoul), which has passed the House and now moves to the Senate; and [SB 864](#) (Pillion) which has been engrossed by the Senate.

The other type of harm reduction legislation also removes the sunset but also allows such programs to operate across the state, not just in areas meeting the current state criteria. This legislation would also remove the local approval requirement for these programs to operate. This broader bill is [HB 791](#) (Plum), which was reported to the House floor. The bill allows broader authority for the operation of such programs by local health departments or nongovernmental organizations in all areas of the Commonwealth and further gives authority to the Health Commissioner (or his designee) to authorize the programs. While the bill does not provide for local government and law enforcement approval to operate, it does require any program to file an annual security plan in consultation with local law enforcement (to allow for two-way discussion of potential security issues and practices).

KEY POINTS

- The State Health Department should continue to have authority over harm reduction programs.
- Local governing bodies should receive notification (at the very least) if a harm reduction program plans to open in their community.
- Local law enforcement should receive a program's security plan before a program opens and be allowed to consult with the program's operators to ensure the safety of the program operators and participants.

Bills propose to mandate size, location of DJJ facilities

Companion bills [SB 1033](#) (Locke) and [HB 551](#) (Ward) would require juvenile correctional facilities established by the Virginia Department of Juvenile Justice (DJJ) after July 1, 2020, to house 30 or fewer juveniles and to be located in a locality in which at least five percent of all juvenile commitments occur statewide, using an average of the rate of commitments of three consecutive years. This would include the cities of Hampton, Newport News, Norfolk, Richmond and Virginia Beach and the counties of Henrico and Prince William. The state currently has only one facility in operation, located in Chesterfield County.

The bills would also require that DJJ place children at the state facility located closest to their primary residence and within one hour's distance via motor vehicle and 1.5 hours via public transportation. The bill would require that if a state facility was not within 1/1.5 hours of a child's home, DJJ would be required to use an alternative placement closer to the juvenile's primary residence. Currently, the Department may use community-based programs and private facilities across the state depending on a child's service needs; it also contracts with certain local detention facilities that offers services that can meet a child's treatment needs. Not every local facility can meet every service need of a child.

Local government and local juvenile detention representatives met with the bills' advocates who agreed to language that would change the original bills' mandate that children be placed in local detention if a state facility was not within the 1/1.5 hour distance of a child's home and instead allow DJJ to consider the full range of placements available closer to a child's home to ensure the child gets appropriate services.

An open question with implications for community-based and local detention programs is the cost impact of the bills' mandate regarding the DJJ facility location and capacity. Smaller facilities would require that more be built; operation costs would be higher as a result. Specifically, DJJ has estimated that a 30-bed facility would cost almost twice as much to staff/operate as the 60-bed facility it has been planning. Higher state costs could eat up funding currently available for community-based programs and the local detention contracts.

HB 551 was reported by House Public Safety and re-referred to House Appropriations; SB 1033 was reported by Senate Rehabilitation and Social Services and re-referred to Senate Finance & Appropriations. Both were sent to the money committees because of their state fiscal impact.

KEY POINTS

- The state’s juvenile justice programs have already been undergoing transformation with a focus on evidence-based, trauma-informed programs for youth
- Any legislation should allow DJJ to continue to focus on the most appropriate treatment needs of youth first and foremost
- The General Assembly should take care to not impose mandates that would use up the funding currently used to fund community-based and local detention contracts that provide appropriate and necessary services to youth.

Epi-pen bill amended

[HB1147](#) (Keam) as amended by a Health, Welfare & Institutions Subcommittee, would allow, not compel, local governments to make epinephrine (injectable through the use of “epi-pens”) available for administration in public spaces (e.g., local government buildings and indoor facilities). The original bill would have required epi-pens to be available in all public places.

VML supports retaining the local option language and oppose mandating the provision of the medication, which requires a prescription and restocking on an annual basis; staff would have to be trained to recognize the need for its use and how to administer the drug. The bill was reported by the full committee on February 4 and heads to the House floor.

Bills would allow naloxone to be placed in public facilities

As a result of a 2019 study by the Joint Commission on Health Care, several bills have been introduced related to barriers on the placement of naloxone (which counteracts opioid overdoses) in public facilities.

As recommended for reporting from a subcommittee of House Health, Welfare, and Institutions, [HB 908](#) (Hayes) would allow an employee or other person acting on behalf of a public place to possess and administer naloxone, provided that person has completed a training program and administers the drug in accordance with specified protocols. The bill provides certain liability protections for a person administering the naloxone in good faith to someone who is believed to be experiencing an overdose.

[SB 566](#) (Edwards) includes similar liability provisions; [SB 836](#) (Suetterlein) contains language authorizing employees of a public place who have completed a training program to possess and administer naloxone.

HB 908 has reported from Health, Welfare, and Institutions; the Senate bills are scheduled to be heard in full Senate Education and Health this week.

K-12 Education Funding

Standards of Quality revision legislation

The Virginia Board of Education prescribed its biannual [revisions](#) to the state’s Standards of Quality (SOQs) in November. Though the Governor’s Introduced Budget funds portions of the Board’s proposals – including increased At-Risk Add-On funding, as well as support to further reduce staffing ratios for school counselors and English Language (EL) – many of the Board’s recommendations remain unfunded.

[HB 1316](#) (Aird) and [SB 728](#) (McClellan) would codify additional recommendations from the Board, including the implementation of mentorship programs for teachers and principals; increased resources for schools serving higher

concentrations of at-risk students; lower staffing ratios for assistant principals; and the removal of school social workers, psychologists, nurses, and other licensed health and behavioral positions from the cap on support positions.

VML strongly supports legislation that would increase supports for SOQ requirements.

School modernization standards

Many localities face significant challenges in raising enough funds to undertake capital school construction or renovation projects. According to a [2013 report](#), more than 40 percent of Virginia's public school buildings and facilities were built at least 50 years ago, and another 20 percent were constructed at least 40 years ago.

[SB 5](#) (Stanley) would require the Board of Education to prescribe by regulation uniform minimum standards for the erection of modern public-school buildings and the modernization of existing public-school buildings for the purpose of promoting positive educational outcomes for each public elementary and secondary school student. While [SB 4](#) (Stanley) would create a Public School Assistance Fund and Program to help localities address mounting capital issues, the two bills are accompanied by just over \$1 million in budget amendments, which will be insufficient to cover the costs for these types of projects.

Statewide estimates for the cost to address all current school capital issues ranged from \$3 billion to \$6 billion in 2018, when the Senate Committee on Local Government convened a separate subcommittee to address school modernization and construction.

VML supports increased state funding for school construction; however, localities will require substantially more support to address capital needs to the extent proposed.

Early childhood education

Early childhood care and education programs are currently administered across separate agencies. However, Governor Northam has prioritized consolidating programming under the Department of Education, with further oversight from the Board of Education and the Superintendent of Public Instruction. To that end, [HB1012](#) (Bulova) and [SB578](#) (Howell) would establish a statewide unified public-private system for early childhood care and education in the Commonwealth. The bill transfers the authority to license and regulate child day programs and other early childcare agencies from the Board of Social Services and Department of Social Services to the Board of Education and Department of Education. The bills maintain current licensure, background check, and other requirements of such programs, but would require the development of a plan for the consolidation of services and a uniform rating and improvement system by July 1, 2021.

Additional bills of interest to support:

[SB 888](#) (McClellan) establishes the Commission on School Construction and Modernization for the purpose of providing guidance and resources to local school divisions related to school construction and modernization and making funding recommendations to the General Assembly and the Governor.

[SB 880](#) (Locke) would reduce the staffing ratio for school counselors to one for every 250 students at all grade levels, aligning with Governor Northam's original staffing guidelines from the 2019 Introduced Budget.

[HB 1495](#) (Torian) would allow retired law-enforcement officers to continue to receive service retirement allowance during a subsequent period of employment by a local school division as a school resource officer or school security officer under certain conditions, whereas [SB54](#) (Cosgrove) is limited to school security officers.