

Capitol Contact

Virginia General Assembly

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Tuesday, February 2, 2016

Bill targeting local business taxes defeated

[HB 217 \(LeMunyon\)](#) provides that a locality may not increase the rate or assessment ratio of the Machinery and Tools Tax or Business Tangible Personal Property Tax on machinery and tools used in a business, the Merchants' Capital Tax, or the Business, Professional and Occupational License ("BPOL") tax or fee higher than the rate and assessment ratio that was applicable on January 1, 2016. The bill also provides that any locality that elects to impose the BPOL tax on Virginia taxable income may not thereafter impose the tax on gross receipts.

VACo opposed the bill in House Finance and the bill was laid on the table in subcommittee.

VACo Contact: [Dean A. Lynch, CAE](#)

Local business taxes targeted by 2016 legislation

[HB 545 \(Watts\)](#) and [SB 218 \(Marsden\)](#) exclude wages, salaries and other benefits paid by a staffing firm to an independent contractor working on behalf of or for the benefit of the staffing firm's clients pursuant to a professional employer organization services or temporary help services contract from the gross receipts of the staffing firm for the purposes of the BPOL Tax.

To the extent that the gross receipts of taxpayers are lowered by amounts paid by staffing firms to independent contractors hired for the use of a client company, this bill would have a negative impact on local revenues. In Fiscal Year 2014, the BPOL tax and fee generated approximately \$674.3 million for the counties, cities, and towns that imposed the tax.

VACo spoke against the measures in committees and [SB 218 \(Marsden\)](#) was passed by indefinitely in Senate Finance while [HB 545 \(Watts\)](#) will be before [House Finance](#) this week.

VACo members, please contact your delegates now to **oppose** [HB 545 \(Watts\)](#) because of negative impact to local revenues.

House Finance: [Ware \(Chairman\)](#), [Orrock](#), [Byron](#), [Cole](#), [Hugo](#), [Cline](#), [Marshall](#), [R.G.](#), [Pogge](#), [Head](#), [Farrell](#), [Fariss](#), [Fowler](#), [Bloxom](#), [Taylor](#), [Freitas](#), [Watts](#), [Keam](#), [Filler-Corn](#), [Kory](#), [Sullivan](#), [Murphy](#), [Aird](#)

VACo Contact: [Dean A. Lynch, CAE](#)

Bills exclude information on ‘fracking’ chemicals from FOIA

[HB 1389 \(Robinson\)](#) and [SB 706 \(Chafin\)](#) are companion bills that amend the Freedom of Information Act (FOIA) by excluding as trade secrets the types of chemicals that may be used in the process of hydraulic fracturing (or fracking). HB 1389 was introduced by unanimous consent after the deadline passed for new bills to be filed with the Division of Legislative Services. The introduction date for SB 706 was January 21.

On January 28, HB 1389 was favorably recommended on a 4-2 vote by a [House General Laws Subcommittee #2](#). The bill is scheduled for consideration by the full [House General Laws Committee](#). SB 706 has been referred to [Subcommittee #2](#) of the [Senate General Laws and Technology Committee](#).

These companion bills – introduced as regulations proposed by the Department of Mines Minerals and Energy (DMME) on fracking – are still undergoing administrative review. The public comment period on DMME’s regulations (VACo participated) closed on December 5, 2015. DMME’s proposed rule includes specific provisions requiring operators to disclose information about chemicals used in the fracking process on the Chemical Disclosure Registry. While DMME’s proposed rule allows certain chemicals to be claimed as a “trade secret,” it is up to DMME to approve the claim. DMME’s proposed rule also requires operators to disclose certain types of “trade secret” information in the case of medical and other emergencies for “diagnostic, treatment, or other response purposes.”

As introduced, HB 1389 and SB 706 provide a much less detailed suite of conditions and procedures under which use of chemicals for fracking would receive designation as a “trade secret.” The proposed legislation also provide no requirements for disclosure about chemicals in emergency situations.

VACo Contact: [Larry Land, CAE](#)

Local employee participation in state health insurance plans

[SB 675 \(Chafin\)](#) and [HB 1215 \(Kilgore\)](#) allow local school boards and local governing bodies to elect to have all their employees and retirees, as well as the dependents of employees and retirees, eligible to participate in the state employee health insurance plan. The local school boards and governing bodies shall be responsible for whatever portion of the cost of such insurance is not paid by the employee, except any portion that the General Assembly elects to pay. The school board and governing body of a given locality must both elect to participate in the state plan in order for their employees to participate.

[SB 675 \(Chafin\)](#) will be up in [Senate Finance](#) this week and [HB 1215 \(Kilgore\)](#) was assigned to the [Compensation and Retirement Subcommittee](#) of the House Appropriations Committee. VACo supports both bills and will be speaking in committees. Call now to voice support for these bills.

[Compensation and Retirement Subcommittee:](#) [Poindexter \(Chairman\)](#), [Ingram](#), [Lingamfelter](#), [Massie](#), [Garrett](#), [Carr](#), [McQuinn](#)

[Senate Finance:](#) [Norment \(Co-Chair\)](#), [Hanger \(Co-Chair\)](#), [Howell](#), [Saslaw](#), [Lucas](#), [Newman](#), [Ruff](#), [Wagner](#), [McDougle](#), [Vogel](#), [Carrico](#), [Alexander](#), [Obenshain](#), [Barker](#), [Dunnavant](#)

VACo Contact: [Dean A. Lynch, CAE](#)

Local government impact bill

[HB 27 \(Ware\)](#) requires local fiscal impact bills to be introduced no later than the first calendar day of the regular session of the General Assembly, unless requested by the Governor or filed in accordance with the rules of the General Assembly. VACo supported this bill but it was tabled by voice vote in the House Rules Committee. House Rules leadership will continue to work with Delegate Ware and VACo to see that this measure is refined and adopted by each legislative body in their respective rules of procedure for 2017.

VACo Contact: [Dean A. Lynch, CAE](#)

Charter school initiatives advance in House

[HB 3 \(Robert Bell\)](#) and [HJR 1 \(Robert Bell\)](#) were reported on a 10-9 vote in the [House Privileges and Elections Committee](#) on January 29. These initiatives put to

referendum a constitutional amendment that would grant the Board of Education the authority to establish charter schools within the school divisions of the Commonwealth, subject to any criteria or conditions that the General Assembly may prescribe. Currently, only local school boards are authorized to approve charter schools.

The full House has deferred a vote on these measures until February 8. VACo opposes any initiatives that weakens the authority of local school boards to establish charter schools.

A vote on the Senate companion measure, [SJR 6 \(Obenshain\)](#), is pending in the [Senate Privileges and Elections Committee](#).

VACo Contact: [Larry Land, CAE](#)

Bill mandating health insurance credits fails

VACo worked to defeat [SB 5 \(Stanley\)](#) in today's [Senate Finance Committee](#) meeting. SB 5 would have had a negative fiscal impact on localities.

The legislation increases the amount of the monthly health insurance credit (HIC) payable to certain local service retirees with 15 or more years of total creditable service from \$1.50 per year of creditable service capped at a maximum benefit of \$45 (30 years of creditable service) to \$4 per year of creditable service with no benefit cap.

Additionally, monthly Plan benefits for those eligible members receiving disability income from an eligible VRS plan (either disability retirement or long-term disability) would be increased to the greater of \$120, or \$4 per year of creditable service at the time of disability retirement, or \$4 per year for each year of creditable service at the time of eligibility for long-term disability.

VACo Contact: [Beau Blevins](#)

Bill requires landfills to install gas collection control systems

[HB 1358 \(Fariss\)](#) requires all active sanitary landfills that hold a Title V operating permit issued by the Virginia Air Pollution Control Board and are located within one-half mile of any residence or residentially zoned property to install a landfill gas collection and control system by July 1, 2018, whether or not the Title V operating permit requires such installation.

VACo opposes this bill as an unfunded mandate.

VACo Contact: [Larry Land, CAE](#)

Study Commission proposed to recommend changes to state and local taxation

[HB 214 \(LeMunyon\)](#) requires dissolving the existing Joint Subcommittee to Evaluate Tax Preferences and creates a new joint subcommittee to evaluate all state and local taxes and subsume the tasks of the dissolved subcommittee.

The new joint subcommittee would be directed to recommend modifications to state and local taxes that would: (i) serve to make the Commonwealth's state and local taxes simpler, more transparent, more efficient, more stable, fairer, less burdensome on economic activity, less burdensome on citizens with the lowest incomes by reducing or eliminating taxes on them, and, to the extent feasible, broader based in exchange for lower rates; (ii) produce sufficient revenue for the foreseeable future; and (iii) make the Commonwealth more competitive in relation to other states regarding job creation, business creation, and business expansion.

The joint subcommittee would be directed to examine the work, recommendations and reports from relevant private and public sources of information, including but not limited to the dissolved Joint Subcommittee to Evaluate Tax Preferences, the JLARC Tax Preferences Study, the Joint Subcommittee to Study and Revise Virginia's State Tax Code, and the Commission on Virginia's State and Local Tax Structure. The joint subcommittee would be directed to submit an executive summary of its findings and recommendations no later than the first day of the 2017 Regular Session of the General Assembly.

The joint subcommittee shall have a total membership of 13 members, consisting of seven legislative members and six non-legislative citizen members. Members shall be appointed as follows: four members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; three members of the Senate to be appointed by the Senate Committee on Rules; two non-legislative citizen members to be appointed by the Speaker of the House of Delegates; two non-legislative citizen members to be appointed by the Senate Committee on Rules; and two non-legislative citizen members to be appointed by the Governor. The non-legislative citizen members shall be citizens of the Commonwealth of Virginia and shall have expertise in Virginia's state and local taxes, economics of taxation, or tax accounting.

There are **NO** proposed local elected or appointed officials proposed on the Commission. **VACo opposes** the study Commission unless amendments reflect at least three local elected or appointed officials be appointed by VACo and VML. The bill will be up this week in [House Rules Committee](#).

VACo Contact: [Dean A. Lynch, CAE](#)

Voting equipment bill dies in subcommittee

[HB 1037 \(Rasoul\)](#) prohibits the use of direct recording electronic machines (DREs) in elections on and after July 1, 2017. The governing bodies of counties and cities have been prohibited from acquiring DREs for use in elections since July 1, 2007, but under current law the use of previously acquired DREs is permitted for the remainder of their useful life.

According to the Department of Elections, 71 out of 133 localities are using direct recording electronic machines (DREs). The proposed legislation would require localities that are using DREs to replace the voting equipment prior to July 1, 2017. Localities are responsible for the purchase and maintenance of their voting equipment; therefore, the proposed legislation would result in a fiscal impact for local governments and is considered an unfunded mandate.

VACo spoke in opposition to the bill because of the negative fiscal impact to county governments. The measure was defeated in the [Campaigns Subcommittee](#) of the House Privileges and Elections Committee.

VACo Contact: [Dean A. Lynch, CAE](#)

Energy revenue opportunities for rural counties

[HB 1305 \(Miller\)](#) provides a Retail Sales and Use Tax exemption for machinery, tools, and equipment used by a public service corporation to generate energy derived from sunlight and wind. Effective for solar energy equipment, facilities and devices placed in service after December 31, 2016, the bill also provides that the exemption from local taxation for solar photovoltaic systems only applies in full to projects equaling one megawatt or less, measured in alternating current (AC) generation capacity, and applies to 80 percent of the assessed value of projects exceeding one megawatt.

Under current law, raw materials that are inputs to production of electricity, including fuel, used by a public service corporation are exempt from the Retail Sales and Use Tax. All other tangible personal property used by a public service corporation in the generation of electric power is subject to the Retail Sales and Use Tax. Currently, the local tax exemption for solar photovoltaic systems only

applies to projects equaling 20 megawatts or less, as measured in alternating current generation capacity.

The provision of the bill providing a Retail Sales and Use Tax exemption for machinery, tools, and equipment used by a public service corporation to generate energy derived from sunlight or wind would have a negative impact on Retail Sales and Use Tax revenues, the magnitude of which is unknown but could be significant.

The bill also modifies the local property tax exemption for solar voltaic systems from applying in full to projects of 20 megawatts or less to applying 1) in full to projects of one megawatt or less and 2) to 80 percent of the assessed value of projects exceeding one megawatt. According to data from the Energy Information Administration, the total amount of solar voltaic capacity installed in Virginia in 2014 was 16.4 megawatts. Given that the total capacity of all projects in Virginia in 2014 was less than 20 megawatts, applying the local property tax exemption to 80 percent of the assessed value of solar voltaic projects exceeding 20 megawatts is not expected to impact local revenues at current levels of investment. Additionally, if future solar voltaic projects are constrained so that each one does not exceed 20 megawatts in generation capacity, the provision of this bill applying the local property tax exemption to 80 percent of the assessed value of solar voltaic projects exceeding 20 megawatts would not impact local revenues.

However, to the extent that the 20 megawatt cap is removed and taxpayers bring larger projects online in the future that qualify for the exemption, localities may observe less property tax revenues from projects that exceed 20 megawatts under this bill than under current law, as only 80 percent of the assessed value would be taxable. To the extent that 20 percent of the assessed value of solar voltaic projects between one megawatt and 20 megawatts would no longer qualify for the exemption, the modification to the local property tax exemption for solar voltaic systems is estimated to result in an increase in local revenues at current levels of investment, the magnitude of which is unknown.

The bill will be up in [House Finance](#) this week and **VACo supports** it as a revenue enhancement opportunity to rural counties.

VACo Contact: [Dean A. Lynch, CAE](#)

Equal taxation proposals

Many bills targeting the equalization of city/town and county taxes through specific excise taxes adopted locally have been proposed but most measures have been or are expected to be defeated; namely [SB 155 \(Favola\)](#), [HB 1198 \(Kory\)](#), [HB 85 \(Campbell\)](#), [HB 419 \(Bagby\)](#), [HB 627 \(Krizek\)](#), [HB 830 \(Hope\)](#) and [HB 1192 \(Murphy\)](#).

VACo has a long tenured commitment to support equal taxation between counties and cities/towns. To that extent, VACo supported these bills and has written the Chairman of Senate Finance to request the Committee study the measure and make recommendations prior to the 2017 General Assembly session.

[Read the letter here.](#)

VACo Contact: [Dean A. Lynch, CAE](#)

Register for the 2016 County Government Day at the General Assembly on February 11



Thursday, February 11, 2016

[Registration Form](#) | [Register Online](#) | [Agenda](#) | [Omni Richmond Hotel](#)

The Virginia Association of Counties invites county officials to VACo County Government Day at the General Assembly on February 11 at the Omni Richmond Hotel.

Governor Terry McAuliffe is confirmed as the Keynote Speaker.

VACo staff will report on legislation affecting local governments, then county officials are encouraged to go to the Capitol to participate in committee meetings and lobby state legislators. In the evening, county officials are strongly encouraged to invite their state legislators to dinner.

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