

# Capitol Contact

## Virginia General Assembly

Virginia Association of Counties • 1207 E. Main Street, Suite 300 • Richmond, VA 23219  
www.vaco.org • 804.788.6652



Thursday, February 4, 2016

## Annexation Moratorium Extended

[SB 309 \(Hanger\)](#) extends the moratorium on city annexations until 2024. It also directs the Commission on Local Government to evaluate the structure of cities and counties and to recommend alternatives to the current moratorium. The study by COLG is to be completed by December 2018. SB 309 was reported from the Senate Local Government Committee and is positioned to be passed by the Senate.

[HB 945 \(Wilt\)](#) has identical language and should be approved by the [House Counties, Cities and Towns Committee](#).

**VACo supports both bills.**

**VACo Contact:** [Jim Campbell, CAE](#)

## Proffer bills improved but still troublesome for counties

[HB 770 Gilbert](#) and [SB 549 Obenshain](#) as introduced would have severely curtailed localities ability to deal with the added community infrastructure needs created by rezonings through the proffer system. Under the original language of the bill, proffer discussions and agreements would have come to a screeching halt. VACo and other local government advocates met several times with representatives of the Home Builders, the Patrons of the bills and other legislators and made significant improvements to the bill. While parts of the legislation remain problematic, many improvements have been achieved and are detailed below:

- The bill no longer requires the impact for which the proffer is accepted to be “uniquely” attributable to the new residential development.

- The bill now includes parks in the categories of public facilities for which off-site proffers can apply.
- The bill originally included a 60 day period for review and reconsideration by the local governing body upon remand, by a court and the bill now provides 90 days.
- The bill now includes a waiver of the public notice requirements for the reconsideration proceeding.
- The bill allows more categories to be excluded from the prohibition on requirements for building materials, finishes, methods of construction or design features found in 15.2-2303.5. The bill now includes exclusions related to noise attenuation, redevelopment and rehabilitation districts created under 58.1-3219.4, economic revitalization zones created under 15.2-1129.2, and flood mitigation.
- The bill now includes language to clearly state that these provisions only apply prospectively.
- The bill now includes a provision that exempts entirely certain sub comp plan areas around metro stations.
- The bill now makes the mandatory award of attorney's fees and court costs for the prevailing aggrieved applicant discretionary instead of mandatory.
- The bill was revised to remove compensatory damages as an award in litigation.

A few key issues remain problematic, including stormwater facilities as an off-site proffer category and the existing limitations on proffers for building materials and design elements. VACo will continue to work on the bill to address these issues.

VACo Contact: [Phyllis Errico, CAE](#)

## School Bus Camera Legislation Passes out of Subcommittee

[HB 168 \(LaRock\)](#), which deals with school bus cameras, passed the House Courts of Justice Committee's [Subcommittee on Civil Law](#) yesterday afternoon. The bill provides that a locality that has authorized by ordinance the installation and operation of a video-monitoring system on school buses for recording violations of unlawfully passing a stopped school bus may execute a summons for such

violation by mailing a copy of the summons to the owner of a vehicle that unlawfully passed a stopped school bus.

The intent of the legislation is to clarify existing Virginia law to expressly permit the mailing of violations for illegally passing stopped school buses, as recorded by County or City-approved school bus camera video-monitoring systems. Further, the legislative changes proposed in the bill parallels current authority in the Virginia Code (§15.2-968.1) that permits mailing summonses for similar traffic violations, such as the running of a red light and parking violations, etc.

[SB 120 \(Carrico\)](#), which incorporates [SB 16 \(Favola\)](#) and [SB 74 \(Wexton\)](#), is identical legislation to HB 168. It is currently in [Senate Courts of Justice Committee](#) yet to be heard.

**VACo supports this legislation** since it provides for local option. We will continue to provide updates on the status of the bills.

**VACo Contact:** [Beau Blevins](#)

## Local Employee Grievance Procedures being challenged

[HB 1293 \(Hugo\)](#) proposes to make significant changes to local grievance procedures. Specifically, it requires that the final step of the grievance process – whether it is considered by a certified hearing officer or an impartial panel – be agreed to by both parties. This eliminates the opportunity for the jurisdiction to clearly state the final steps of the process.

In addition, the bill invalidates all existing grievance procedures which have previously been approved as compliant by the Department of Human Resource Management and contain a pre-determined method for establishing an impartial hearing panel.

**VACo opposes this bill** as it has in past sessions because it delays the grievance process and invalidate many well established and approved local grievance processes.

**VACo Contact:** [Jim Campbell, CAE](#)

## Update on charter schools

On February 2, [SJR 6 \(Obenshain\)](#) and [SJR 93 \(Obenshain\)](#) were reported on a 7-6 vote by the [Senate Privileges and Elections Committee](#). These initiatives are intended to put to referendum on 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 companion House measures – [HB 3 \(Robert Bell\)](#) and [HJR 1 \(Robert Bell\)](#) – are pending a vote by the full chamber. Action on the House measures has been deferred to February 8.

**VACo opposes** any initiatives that would weaken the authority of local school boards to establish charter schools.

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

## VHTF Bill Carried Over to 2017

**VACo spoke in support** of [SB 105 \(Locke\)](#) in yesterday's [Senate Finance Committee](#) meeting. The bill provides that 20 percent of annual recordation tax revenue in excess of \$325 million shall be deposited into the Virginia Housing Trust Fund. The bill is a recommendation of the Virginia Housing Commission. The committee voted to carry the bill over to the 2017 General Assembly Session in order to further study the implications.

**VACo Contact:** [Beau Blevins](#)

## Wireless Communication legislation impacts localities

[HB 1347 \(Heretick\)](#) prohibits localities from (1) charging any fees associated with the application, consultation, submission, review and processing for approval to construct, modify, collocate or replace a wireless facility, (2) acquiring information to evaluate an applicant's business decision, (3) evaluating an application based on the availability of other potential locations, (4) dictating the type of wireless facilities, infrastructure or technology to be used, (5) requiring the removal of existing wireless support structures or wireless facilities, as a condition for approval, and (6) imposing certain environmental testing, sampling or monitoring requirements or instituting any moratorium on the permitting. The proposed bill imposes caps on the fees localities are allowed to charge for the costs directly incurred for granting or processing of an application. The fiscal impact of the bill could be as high as \$120,000 for a locality. The bill would impact all localities in some way.

**VACo opposes the bill** due to the negative fiscal impact on localities. HB 1347 is before the [House Commerce and Labor Committee](#) this afternoon.

**VACo Contacts:** [Dean Lynch](#) and [Beau Blevins](#)

## Bill championing workforce development in public schools advances

VACo supports [SB 336 \(Miller\)](#), which requires the Board of Education, in establishing high school graduation requirements, to include components relating to career and technical training. On February 4, the bill was unanimously reported by the [Senate Education and Health Committee](#).

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

## Bill requiring gas collection systems in landfills to be carried over

On February 3, the [Natural Resources Subcommittee](#) of the House Agriculture, Chesapeake and Natural Resources Committee recommended that [HB 1358 \(Fariss\)](#) be carried over to the 2017 legislative session.

HB 1358 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 opposed the bill** as an unfunded mandate. Delegate Fariss introduced the bill to address a severe odor problem caused by a landfill in his district.

The landfill operator has made a commitment to fix the problem.

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

## Bill allows local DSS employees to file petitions

[SB 417 \(Vogel\)](#) will be heard in tomorrow's [Senate Rehabilitation and Social Services Committee](#). The bill allows designated nonattorney employees of a local department of social services to (1) initiate a case on behalf of the local department by appearing before an intake officer and (2) complete, sign, and file with the clerk of the juvenile and domestic relations district court, on forms approved by the Supreme Court of Virginia, petitions for foster care review, petitions for permanency planning hearings, petitions to establish paternity, motions to establish or modify support, motions to amend or review an order, and motions for a rule to show cause. The bill also directs directors of local

departments of social services to designate nonattorney employees who are authorized to perform such tasks

**VACo supports the bill** as it would allow localities to continue the practice of designating nonattorney employees to file petitions with the court and avoid the cost of having to hire an attorney to perform the task.

**VACo Contact:** [Beau Blevins](#)

## Use value as opposed to fair market value for LCI calculation

[HB 191 \(Minchew\)](#) requires that use value (as opposed to fair market value) be utilized when calculations are made of the Local Composite Index (LCI). On February 3, the [Elementary and Secondary Education Subcommittee](#) of the House Education Committee voted to refer the bill without recommendation to the House Appropriation Committee.

**VACo supports** use value for calculating the LCI. VACo also supports [HJR 50 \(Webert\)](#), a study resolution directing the Department of Education (DOE) to study use value in the calculation of LCI. The LCI is a measure of a locality's ability to pay and determining the local/state shares in funding the Standards of Quality for public education.

**VACo Contact:** [Larry Land, 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.

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