

Draft 2020 Legislative Positions and Policy Statements

Agriculture

Virginia Agricultural Best Management Practices Cost-Share Program: Support State funding for the Virginia Agricultural Best Management Practices Cost-Share Program in the amount of \$100,000,000 per year.

Comment: Current State funding is \$8,800,000 in FY 21 and \$8,800,000 in FY 22.

Broadband and the Internet

Broadband Deployment: Support legislation by the State and the federal government that would assist localities and provide financial incentives to localities and their communities in deploying universal, affordable access to broadband technology, particularly in unserved and underserved areas, while at the same time preserving local land use authority for siting telecommunications infrastructure. This includes supporting continued and increased funding for the Virginia Telecommunications Initiative (VATI). In addition, support legislation that would: (1) ensure that coverage maps used to determine underserved and unserved areas or census blocks are accurate; and (2) amend the definition of “coverage” to mean that service actually exists in a census block or area and the service availability within that census block or area is substantial.

Comment: Increased VATI funding is pending in the General Assembly’s special session.

Net Neutrality: Support legislation that would prohibit internet service providers from slowing down or blocking access to websites, charging companies extra to deliver their services faster, and other acts that adversely affect consumers and discourage competition.

Growth Management, Environmental Protection, Land Use, and Transportation

Biosolids: Support legislation enabling localities, as part of their zoning ordinances, to designate and/or reasonably restrict the land application of biosolids to specific areas within the locality based on criteria related to the public safety and welfare of its citizens and the environment. In addition, support legislation regarding the land application of biosolids that protect the environment, public health and safety.

Environmental: Support legislation prohibiting businesses from using disposable plastic bags and straws and to require bottle deposits, or enable localities to do so, with exceptions applicable to straws for hospitals and other care facilities.

Comment: SB 11 and HB 535 (2020) added Virginia Code § 58.1-1745 *et seq.* to authorize any county or city to impose a tax of five cents per bag on disposable plastic bags provided to consumers by certain retailers. The tax must have a delayed effective date of January 1, 2021.

Impact Fee Authority: Support impact fee legislation that: (1) allows for effective implementation through simple locally-based formulae and reasonable administrative requirements; and (2) does not cap or limit localities’ impact fee updates.

Open-space Easements: Support legislation that augments local efforts in natural resource protection through: (1) continued funding of the Virginia Land Conservation Foundation (VLCF) for locally established and funded Purchase of Development Rights programs (*e.g.*, the ACE Program in Albemarle County); (2) continued provision of matching funds to localities for their Purchase of Development Rights programs through the Office of Farmland Preservation; (3) retaining provisions in transient occupancy tax legislation so that funds can continue to be used to protect open-space and resources of historical, cultural, ecological, and scenic value that attract tourism; (4) increased incentives for citizens to create conservation and open-space

easements; (5) fully allocating the Land Preservation Tax Credit transfer fee for the stewardship of protected land; and (6) restoring the individual cap on the use of the Land Preservation Tax Credit to \$50,000 per year.

Proffers: Support further changes to the current proffer system and, in particular, the proffer legislation approved in 2016 (Virginia Code § 15.2-2303.4) and amended in 2019, which limits the scope of impacts that may be addressed by proffers and establishes specific criteria for when a proffer is deemed to be unreasonable. Support changes to provide more balanced and practical standards for determining whether a proffer is reasonable and restore a climate where localities and applicants can openly discuss rezoning applications and possible proffers.

Scenic Protection and Tourist Enhancement: Support enabling legislation for Albemarle County to provide for a scenic protection and tourist enhancement overlay district. The legislation would provide a method to ensure full consideration of visual resources and scenic areas when the County or State make land use decisions in designated areas.

Stop Extending the Sunset Provisions in Virginia Code § 15.2-2209.1: Support allowing the sunset provisions in Virginia Code § 15.2-2209.1 to expire. First adopted in 2009 to extend the validity of certain land use approvals during the Great Recession, the General Assembly has repeatedly extended the sunset clauses for these approvals, resulting in non-vested and undeveloped but approved projects that can be 15 years old or more that may no longer be consistent with the locality's current planning policies or zoning or site development requirements. (New)

Stormwater Management: Support State funding for the Stormwater Local Assistance Fund (SLAF) in the amount of \$80,000,000 per year in Fiscal Years 2021 and 2022. Oppose any legislation that would impact the resource and funding needs of the Virginia Department of Environmental Quality (DEQ) to fully administer, enforce, and maintain the State Stormwater Management Act, the Erosion and Sediment Control Law, and the Chesapeake Bay Preservation Act.

Transportation Funding: Support legislation to: (1) establish a new dedicated funding source for a Charlottesville-Albemarle Regional Transit Authority; (2) establish stable and consistent State revenues for Virginia's long-term transportation infrastructure needs; (3) direct funding efforts to expand transportation choices and engage in multimodal transportation planning; and (4) fund maintenance of rural road systems. Oppose any legislation or regulations that would require the transfer of responsibility to counties for constructing, maintaining, or operating new and existing secondary roads.

Water Quality and Resources: Support State funding for the following: (1) agriculture best management practices; (2) stormwater grant initiatives; and (3) wastewater treatment plant upgrades.

Health and Human Services

Abuse and Neglect: Support legislation to expand the definition of "abuse and neglect" to include parents who use Schedule I/II controlled substances or are habitually intoxicated while being responsible for children.

Administrative Appeals and Findings: Support legislation to amend Virginia Code § 63.2-1526(A) to require that an administrative finding be controlled by a court's civil or criminal finding if those matters involve the same conduct and the same victim and arise under the same operative facts. Support legislation to amend Virginia Code § 63.2-1526(C) to stay child protective services administrative appeals while abuse and neglect proceedings, findings, or both, are pending in circuit court.

Child Care for Low Income Working Families: Support legislation to provide additional funds to localities to assist low-income working families with childcare costs. Funding helps working-class parents pay for supervised day care facilities and supports efforts for families to become self-sufficient.

Children’s Services Act (CSA): Support: (1) a locality’s ability to use State funds to pay for mandated services provided directly by the locality, specifically for private day placements, where the same services could be offered in schools; (2) maintaining cost shares on a sum sufficient basis by both the State and localities; (3) enhanced State funding for local CSA administrative costs; (4) a cap on local expenditures in order to combat higher costs for serving mandated children; and (5) the State being proactive in making residential facilities and service providers available, especially in rural areas. Oppose changing the funding mechanism to a per-pupil basis of State funding, which would shift the sum sufficient portion fully to localities.

Increase Funding for Community Services: Support increased State funding for community services.
(New)

Local Department of Social Services (LDSS): Support increased State funding for LDSS to match all available federal funding to assist LDSS staffing needs in order to meet State mandated services and workloads.

Targeted Grants: Support improving the State’s targeting of grants to businesses that pay higher wages by increasing the minimum wage requirements for eligible grant applicants.

Local Government Administration and Finance

Body Worn Cameras: Support legislation to amend Virginia Code § 2.2-3706 (which is part of the Virginia Freedom of Information Act (FOIA)) to clarify that local law enforcement agencies have the authority to withhold from mandatory disclosure under FOIA those records, including body worn cameras and dashcam video, that contain identifying information of a personal, medical, or financial nature where the release of the information could jeopardize the safety or privacy of any person.

Community College Capital Costs: Support legislation for the State to fund 100% of public funding required for community college capital costs. Currently, localities are required to fund a portion of operating and capital costs.

Composite Index: Support legislation to amend the Composite Index Funding Formula by re-defining the local true value of real property component of the formula to include the land use taxation value of real property rather than the fair market assessed value for those properties that have qualified and are being taxed under a land use value taxation program.

Drones: Support legislation enabling localities to have authority to regulate the use of unmanned aerial vehicles in their jurisdictions not preempted by federal law.

Comment: HB 742 (2020) amended Virginia Code § 15.2-926.3 to authorize political subdivisions to regulate the take-off or landing of certain drones on property owned by the political subdivision in accordance with the rules and regulations adopted by the Virginia Department of Aviation. The bill has a delayed effective date of January 1, 2021.

Drug Court Funding: Request full funding for the Drug Court Program, which provides effective treatment and intensive supervision to drug offenders through the Circuit Courts of several Virginia localities.

Elections; June Primaries: Support legislation to move the annual date for June primary elections in the Commonwealth from the second Tuesday in June to the third Tuesday in June to avoid conflicts between local election administration and local school systems, where schools serve as voting precinct polling places.

Photo Speed Monitoring Devices; Expand Their Authorized Use: Support legislation to expand the authorized use of photo speed monitoring devices. The current law, effective July 1, 2020, authorizes State

and local law enforcement agencies to use photo speed monitoring devices only in school crossing zones and highway work zones, with maximum penalty of \$100. (New)

Public Defender Funding: Request the State to adequately fund compensation for public defenders in Commonwealth jurisdictions.

Regional Library Funding: Request full funding of State Aid to the Jefferson Madison Regional Library and other regional libraries in the State system.

Seat Belts: Support legislation that would make the failure to use a seat belt a primary offense.

State Mandates Funding: Request full funding for State mandates in all areas of local government including, but not limited to, the Standards of Quality (SOQs) and other mandates imposed on local school divisions, positions approved by the Compensation Board, costs related to jails and juvenile detention centers and human services positions.

Taxing Authority: Support legislation enabling urban or high growth counties to have the same taxing authority as cities to address capital and operations needs and to reduce over-reliance on the real property tax as a revenue source.

Comment: HB 785 and SB 588 (2020) amended numerous sections of Title 58.1 of the Virginia Code relating to local taxing authority:

Admissions tax: The bill amends Virginia Code § 58.1-3818 to authorize most counties to impose an admissions tax, not to exceed a 10 percent rate. Under the prior law, only Arlington, Brunswick, Dinwiddie, Fairfax, and Prince George Counties could impose an admissions tax. A county may elect not to levy an admissions tax on admission to an event if its purpose is solely to raise money for charitable purposes and that the net proceeds derived from the event will be transferred to one or more entities exempt from the sales and use tax. certain counties may impose an admissions tax. This enabling authority became effective July 1, 2020. Notate that if the County imposes an admissions tax, it may not be imposed on and collected for University of Virginia events to which the tax might otherwise apply. A 2001 opinion of the Virginia Attorney General concluded that, based on several longstanding principles, a locality may not require a state university to collect an admissions tax in the absence of express statutory authority. The statute in issue (Virginia Code § 58.1-3817) has not been amended since that 2001 opinion.

Cigarette tax: The bill amends Virginia Code § 58.1-3830 to authorize any county, city, or town to levy taxes on the sale or use of cigarettes. For counties, the maximum tax rate is two cents per cigarette (40 cents per pack) sold; the same rate applies to cities and towns, except those cities or towns that had a tax rate exceeding two cents per cigarette sold on January 1, 2020, in which case the higher rate applies. This enabling authority becomes effective July 1, 2021. A 2015 draft citizen advisory committee report estimated that Albemarle County could generate \$1,000,000 per year in revenue from a cigarette tax based on a tax rate of one and one-half cents per cigarette (30 cents per pack).

Food and beverage tax: The bill amends Virginia Code § 58.1-3833 to, among other things, increase the maximum tax rate on food and beverages from four to six percent. The bill also eliminates the requirement that a county hold a successful referendum before imposing a food and beverage tax. This enabling authority became effective July 1, 2020.

Transient occupancy tax: The bill amends Virginia Code § 58.1-3819 and other sections (not applicable to Albemarle County) to eliminate the limit on the rate of transient occupancy tax that a county may impose. The bill requires that any revenue attributable to a rate over two percent but not exceeding five percent must be dedicated to tourism marketing (as Albemarle County does under the current enabling authority). This enabling authority becomes effective May 1, 2021.

Division of Legislative Services: Section 5 of the bill (uncodified) directs the Division of Legislative Services to “identify the different legal authorities and requirements that apply to cities and counties that are not related to taxation, including those related to the provision of local services and related to sovereign immunity.” The Division is directed to submit a summary of its recommendations and a draft of any recommended changes to the Chairs of the House Committees on Appropriations and Finance and the Senate Committee on Finance and Appropriations by October 31, 2020.

Virginia Retirement System: Support restoration of funds to the Virginia Retirement System to maintain the long-term solvency of the plan without further devolving the funding responsibility to localities.