

Albemarle County's 2016 Legislative Priorities Report

This report summarizes actions taken regarding Albemarle's 2016 Legislative Priorities. This report will often cite information from the final legislative reports of the Thomas Jefferson Planning District Commission (TJPDC), Virginia Municipal League (VML), and the Virginia Association of Counties (VACo). For complete reports from these organizations that provide a thorough overview of local government impacts beyond Albemarle's priorities, please see the links below.

Legislative Information System: [LIS](#)

TJPDC: [Legislative Liaison](#)

VACo: [Legislation](#)

Virginia Municipal League: Legislative Report (*unavailable as of 6/8/16*)

Growth Management, Land Use and Transportation

****Noxious Weeds** – Support changes to the Virginia Code and to the Virginia Invasive Species Management Plan that direct efforts to prevent and control damage caused by invasive species.

[HB 734](#) establishes an advisory committee to evaluate the risks of a plant or part thereof that is being considered for designation as a noxious weed. The bill exempts from the definition of "noxious weed" any plant whose in-state production is commercially viable.

****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.

No new funding is provided for the Stormwater Local Assistance Fund, though use of the Fund has been expanded to include acquisition of nonpoint nutrient credits.

****Stormwater Management** – Oppose any legislation that would impact the resource and funding needs of the Department of Environmental Quality (DEQ) to fully administer, enforce, and maintain the Stormwater Management Laws.

[HB 438](#) authorize Municipal Separate Storm Sewer Systems (MS4) permittees to acquire and use sediment reduction credits as part of a compliance strategy for implementing the Chesapeake Bay TMDL. Currently, MS4s have similar authority for nitrogen & phosphorus.

[HB 448](#) Allows a new or expanding facility registered under the Watershed General Permit to acquire nutrient offset credits, on land located in the same tributary as the facility, on which best management practices have been implemented that would achieve reductions greater than those currently required by federal or state law or the Chesapeake Bay TMDL Watershed Implementation Plan. The bill also allows the acquisition of credits or the allocation of credits under the general permit for a period longer than the current five-year restriction, subject to the approval of the State Water Control Board.

[HB 1250/SB 673](#) combine existing statutory programs relating to soil erosion and stormwater management. The bills also direct certain charges or penalties to the Stormwater Local Assistance Fund, which provides matching grants to local governments for stormwater best management practices. The bills also require DEQ to evaluate fees related to the consolidated new program & to adopt regulations to carry out the purposes of the bill. The bill has a **delayed effective date of July 1, 2017 or 30 days after DEQ adopts regulations.**

[SB 468](#) authorizes localities having a stormwater utility fee to establish a public-private partnership program to promote cost-effectiveness in reducing excessive stormwater flow or pollutant loadings or in making other stormwater improvements.

SB 598 Clarifies that certain flow rate capacity and velocity requirements for plans approved on and after July 1, 2014, shall be satisfied by compliance with Virginia Stormwater Management Program (VSMP) Regulations where the land-disturbing activity is conducted in accordance with extended permit coverage regulations.

Broadband – Support legislation by the Commonwealth and the Federal Government that would assist communities in their efforts to deploy universal affordable access to broadband for all areas, particularly in underserved and rural areas while preserving local land use, permitting, fees, and other local authority.

The budget provides \$1.25 million to supplement construction costs of broadband service providers to extend service to areas presently underserved. Areas designated to receive funds for construction through the federal Connect America program or receiving other state or federal funds for construction are not eligible to receive this funding through the Virginia Telecommunications initiative. Additional assistance will be encouraged from local governments in areas designated to receive funds, to lower overall cost and to assist with permits, rights of way, easements and other issues.

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. The County also strongly opposes any legislation or regulations that would require the transfer of responsibility to counties for construction, maintenance or operation of new and existing secondary roads.

The approved budget establishes a pilot program for unpaved road sections that (i) are more than two miles in length, (ii) are not dead-end, (iii) intersect with existing paved roads at both ends, and (iv) have a traffic volume of 100 or more vehicles

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 land application of biosolids that protect the environment, public health and safety.

HJ 120 Directs the Joint Legislative Audit and Review Commission to analyze scientific literature on the health effects of biosolids (treated sewage sludge) and industrial residuals (wastes resulting from industrial processes), evaluate the feasibility of requiring municipal utilities that are currently permitted to generate "Class B" material to upgrade their facilities to generate "Class A" material, and undertake other analyses. This is a two-year study.

Local Authority - Support legislation to strengthen localities’ authority by enabling them to utilize adequate public facilities ordinances, and encourage the General Assembly to refrain from passing legislation that preempts or circumvents existing local authority to regulate land use.

HB 879 clarifies that, for farm wineries or limited breweries, “on land zoned agricultural” means land zoned as an agricultural district, or classification that permits agricultural use, and that it does not include residential conservation. **SB 578** includes these provisions for limited breweries and **SB 579** includes these provisions for limited distilleries. The bills also state that nothing else in the definition of “land zoned agricultural” limits or affects the local zoning authority.

SB 416 Establishes the Limited Residential Lodging Act (the Act), which allows persons to rent out their primary residences or portions thereof for charge for periods of less than 30 consecutive days or do so through a hosting platform. Localities are preempted from adopting ordinances or zoning restriction prohibiting such short-term rentals, but authorized to adopt ordinances requiring persons renting their primary residences to have a minimum of \$500,000 of liability insurance, prohibiting persons from renting their primary residences if they fail to pay applicable taxes, and requiring persons renting their primary residences to register with the locality. A hosting platform must register with the Department of Taxation to collect and remit all applicable taxes on behalf of the property owner using the hosting platform. The bill defines "limited residential lodging," "booking transaction," and "hosting platform" and provides for penalties for violations of the Act. **The bill contains a reenactment clause** and directs the Virginia Housing Commission to convene a work group to further study the issues presented in the bill and make recommendations for consideration by the 2017 Session of the General Assembly.

Impact Fee Authority - Support impact fee legislation that allows for 1) effective implementation through simple locally-based formulae and reasonable administrative requirements; 2) does not cap or limit localities' impact fee updates; and 3) does not diminish the existing proffer system

SB 549 Provides that no locality shall (i) request or accept any unreasonable proffer in connection with a rezoning or a proffer condition amendment as a condition of approval of a new residential development or new residential use or (ii) deny any rezoning application, including an application for amendment to an existing proffer, for a new residential development or new residential use where such denial is based on an applicant's failure or refusal to submit, or remain subject to, an unreasonable proffer. A proffer shall be deemed unreasonable unless it addresses an impact that is specifically attributable to a proposed new residential development or other new residential use applied for. An offsite proffer shall be deemed unreasonable pursuant to the above unless it addresses an impact to an off-site public facility such that (a) the new residential development or new residential use creates a need, or an identifiable portion of a need, for one or more public facility improvements in excess of existing public facility capacity at the time of the rezoning or proffer condition amendment and (b) each such new residential development or new residential use applied for receives a direct and material benefit from a proffer made with respect to any such public facility improvements. In any action in which a locality has denied a rezoning or an amendment to an existing proffer and the aggrieved applicant proves by a preponderance of the evidence that it refused or failed to submit, or remain subject to, an unreasonable proffer that it has proven was suggested, requested, or required, formally or informally, by the locality, the court shall presume, absent clear and convincing evidence to the contrary, that such refusal or failure was the controlling basis for the denial. **Applies to applications filed on or after July 1, 2016.**

Conservation 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. 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; and 4) increased incentives for citizens to create conservation easements.

The budget provides \$8 million for the Virginia Land Conservation Fund and \$1 million each year for farmland preservation.

Scenic Protection and Tourist Enhancement - Support enabling legislation for Albemarle County to provide for a scenic protection and tourist enhancement overlay district. Such 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.

No legislation was introduced in the 2016 General Assembly on this matter.

Health and Human Services

Comprehensive Services Act (CSA) - Request that the legislature assist localities' implementation of CSA in a consistent, financially stable manner by: 1) fully funding the state pool for CSA with allocations based on realistic anticipated levels of need and a cap on local expenditures for serving a child through CSA, and 2) encouraging the state to be proactive in making service providers available and to support local and regional efforts to address areas of cost sharing among localities by procuring services through group negotiation.

The budget provides \$500,000 each year to support local governments in administering CSA and provides additional dollars for CSA for anticipated caseload and expenditure growth.

Child Care for Low Income Working Families - Request the legislature provide additional funds to local governments 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.

No legislation was introduced in the 2016 General Assembly on this matter.

Local Department of Social Services (LDSS) - Request the legislature increase funds for LDSS to match all available federal dollars to assist LDSS staffing needs in order to meet state mandated services and workloads.

The budget adds about \$8 million in general and nongeneral funds for local departments to handle increased volume of Medicaid applications & renewals. It also provides an additional \$4.2 million over two years for anticipated caseload growth in Early Intervention Part-C programs and includes nearly \$6 million in state & federal funds to extend foster care assistance to age 21 through "Fostering the Future" program.

Local Government Administration and Finance

*****Body Worn Cameras*** – Support legislation to amend Virginia Code § 2.2-3706 of the Virginia Freedom of Information Act 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 such information could jeopardize the safety or privacy of any person.

HB 998 would have required localities to adopt and establish a written policy for the operation of a body-worn camera system that conforms to the model policy established by the Department of Criminal Justice Services (the Department) prior to purchasing or deploying a body-worn camera system. **The bill was left in Courts of Justice committee.**

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

No legislation was introduced in the 2016 General Assembly on this matter.

*****Drones*** – Support legislation enabling local governments to have authority to regulate the use of unmanned aerial vehicles in their jurisdictions not preempted by federal law.

HB 412 provides that no locality may regulate the use of privately owned, unmanned aircraft within its boundaries. The provisions of the bill expire July 1, 2019.

Taxation - Support legislation granting counties taxing powers equal to those granted cities and towns, without decreasing, limiting or changing city and town taxing authority.

HB 85 would have authorized any county to impose a tax on the sale of cigarettes, not to exceed the greater of five cents per pack or the amount levied under state law. **The bill was left in Finance Committee.**

HB 419 would have permitted all counties to impose a cigarette tax. Currently the only counties authorized to impose such tax are Fairfax and Arlington. **The bill was left in Finance Committee.**

HB 546 would have granted counties with a population density greater than 2,000 persons per square mile certain powers related to taxation, borrowing, and payments for highway maintenance. **The bill was left in Finance Committee.**

HB 1192 would have permitted any county to impose a cigarette tax at a rate not to exceed twice the state cigarette tax rate. **The bill was left in Finance Committee.**

School Bus Video-Monitoring Systems - Request the General Assembly to amend Virginia Code Section § 46.2-844 to allow for service of summonses by mail for violations of passing stopped school buses recorded by school bus video monitoring systems similar to the authority in Virginia Code Section § 15.2-968.1, for the service of summonses for running red lights recorded by a traffic signal enforcement program.

HB 168/SB 120 authorize the mailing of summonses to persons who are caught on camera passing a stopped school bus; current law requires such a summons to be personally served by a law enforcement officer.

Virginia Retirement System - The County supports 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.

HB 665 Creates the Commission on Employee Retirement Security and Pension Reform (the Commission) in the legislative branch to study and make recommendations relating to the financial soundness of retirement plans covering state and local government employees; the suitability of retirement plans offered or maintained for current state and local government employees and the attributes of retirement plans that will be suitable for future employees; the impact on state and local governments of the anticipated retirement of experienced employees between 2016 and 2026 and strategies for replacing such employees; and the elements of compensation and benefits packages that are essential to attracting and retaining a highly productive state and local government workforce.

June Primary Elections – 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.

No legislation was introduced in the 2016 General Assembly on this matter.

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.

HB 191 would have required, for the purpose of determining the state and local shares of basic aid funding, that the composite index of local ability-to-pay or "local composite index" utilize the use value of all applicable real estate (i) devoted to agricultural use, horticultural use, forest use, and open-space use in

*each locality that has adopted an ordinance by which it provides for the use valuation and taxation of such real estate and (ii) used in agricultural and forestal production within an agricultural district, forestal district, agricultural and forestal district, or agricultural and forestal district of local significance in each locality that provides for the use valuation and taxation of such real estate, regardless of whether it has adopted a local land-use plan or local ordinance for such valuation and taxation. **The bill was tabled in Education Committee.***

HB 532** would have required the state and local funding share formula, the composite index of local ability to pay, to take into consideration the population of the relevant locality, the number of enrolled English-language learners, and the number of enrolled students who are eligible to receive free or reduced-price lunch. **The bill was tabled in Education Committee.

HJ 50** would have requested the Department of Education to (i) determine, for each of the 95 localities that have adopted ordinances to provide for the use value assessment and taxation of certain real estate, the use value of all applicable (a) real estate devoted to agricultural use, (b) real estate devoted to horticultural use, (c) real estate devoted to forest use, and (d) real estate devoted to open-space use, as those terms are defined in the Code of Virginia, and (ii) recalculate the Composite Index of Local Ability to Pay for each locality after taking into consideration such use values. **The bill was continued to 2017.

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

No legislation was introduced in the 2016 General Assembly on this matter.

Public Defender funding - Request the state to adequately fund compensation for public defenders in Commonwealth jurisdictions.

No legislation was introduced in the 2016 General Assembly on this matter.

Full Funding of State Mandates - 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.

Nearly \$194 million of Lottery Proceeds Fund revenues will be sent to Commonwealth school divisions on a per pupil basis in the amounts of \$36.6 million FY17 (\$52.42 per pupil) & \$157.2 million FY8 (\$224.43 per pupil).

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.

The final budget approved by the General Assembly retained the \$182,500.00 previously allotted for the Charlottesville-Albemarle Drug Court Program.