

**Board of Supervisors**

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County Administrator

**Legislative Committee**

**September 18, 2018, 10:30 a.m. to 11:30 a.m., County Administration**

**Invited Attendees:** Supervisors Wendy Maurer & Mark Dudenhefer, Tom Foley, Mike Smith, Fred Presley, Julia Hammond, and Anthony Toigo. All BOS, Leadership Team members & SCPS designees invited.

**Purpose:** Recap of issues from summer meetings and recommend a draft legislative program for Board Action.

**Outcomes:** Recommend Draft 2019 General Assembly Legislative Program

Items		
	1. Welcome	8:30 a.m.
	2. Review of VACo Meetings	8:31
	3. 2019 Virginia Political Climate	8:40
	4. Overview of Draft Legislative Program	8:45
	5. Review Legislative Calendar	9:25
	6. Adjourn	9:30
	Next Meeting: TBD	

Conference Call Number: 1-877-873-8017

Access Code: 2778856

Host ID: 6080





## Stafford County Board of Supervisors

2019 General Assembly Legislative Program

Priority Initiatives & Program Positions

DRAFT



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## Appendix

R18-229: Adoption of 2019 Priority General  
Assembly Initiatives & Legislative Positions

R18-230: Endorsement of 2019 VACo Program

R18-231: Endorsement of 2019 VACo Region 7  
Program



# 2019 Priority General Assembly Initiatives

### Commissioner of the Revenue

- **Initiative: HOA Property Transfer; Trigger Point** – *Suggested by Supervisor Maurer.* Provides that localities may not release developer securities or bonds for a housing development until all common areas are transferred from the developer to said development's homeowner's association. Stafford County has several parcels of land designated as "common area" which is deeded in the name of inactive legal entities. The legislation would seek to provide for the assurance of property transfer, thereby preventing these situations from occurring in the future.

### Education

- **Initiative: Cost of Competing Funds Adjustment Inclusion** – *Adopted by Stafford County Public Schools.* "Advocate for the re-evaluation of Stafford's current designation as a recipient of 25% of the Cost of Compete Adjustment (COCA) funds for support and instructional staff and urge Stafford's inclusion as a Northern Virginia locality in light of the I-95 express lanes, federal emissions testing requirements, and inclusion in economic growth figures for Northern Virginia."
- **Initiative: Public Day School Funding** – Support changes within the Children's Services Act to provide additional state support for community-based, therapeutic public day schools. Stafford County has documented a potential savings of over 40% per participant annually versus private placements outside the community yet State policy both through the Children's Services Act (CSA) and the Virginia Department of Education (VDOE) forces the higher cost approach. The use of private day school placements for students has skyrocketed among the Commonwealth for many years yet there have not been any policy changes to support innovative approaches to educating these youths within the community school system, further, private day school rates are disparate across the Commonwealth. The County also supports a pilot initiative within the Children's Services Act to establish public day schools based on models that are collaborative and demonstrate cost savings for both local and state government.

### Planning & Zoning

- **Initiative: Expansion of Local Impact Fee Authority** – Stafford County supports the expansion of broad impact fee authority for localities as a means to more adequately meet the increasing need for public facilities and infrastructure driven by the costs of new development without burdening current residents with the cost of new growth through increased real estate taxes. The County is supportive of SB 208, introduced by Senator Stuart, which would "make the existing impact fee provisions available for use by any locality that includes within its comprehensive plan a calculation of the capital costs of public facilities necessary to serve residential uses".

### Sheriff

- **Initiative: Amend Virginia Code to Allow Full-Time Employment of Retired VA Law Enforcement Officers in School Security & Remove Restrictions upon Hours Worked** – Petition the State to amend and reenact the Code of Virginia as it relates to the Virginia Retirement System to permit retired-law enforcement officers to be hired in full-time school security positions without loss of retirement benefits. Current law limits retired Virginia Police Officers to a maximum of 80% of full-time employment benefits after qualifying for retirement. Further, to amend and reenact the Code of Virginia § 9.1-114, to direct the Virginia Department of Justice to remove restrictions preventing part-time Sheriff's Deputies under the Auxiliary II classification from working more than eighty-hours per calendar year.



### 2019 Legislative Positions

1. The following listing of Legislative Positions is comprised of those items specifically listed in Resolution R18-229. They include both the Board's Priority Legislative Initiatives (titled in **blue**) and those positions denoted by the Board as "be it further resolved clauses."
2. With adoption of Resolution R18-230, Stafford County offers its endorsement of the positions contained within the Virginia Association of Counties (VACo) 2019 Legislative Program, and desires VACo's support of Stafford's Priority General Assembly Initiatives and Legislative Positions. Stafford County reserves the right to endorse a position contrary to that of VACo, when such a position adversely affects Stafford County.
3. With adoption of Resolution R18-231, Stafford County offers its endorsement of the positions contained within the Virginia Association of Counties (VACo) Region 7 2019 Legislative Program, and desires Region 7's support of Stafford's Priority General Assembly Initiatives and Legislative Positions. Stafford County reserves the right to endorse a position contrary to that of Region 7, when such a position adversely affects Stafford County.



### Commissioner of the Revenue

- **Initiative: HOA Property Transfer; Trigger Point** – *Suggested by Supervisor Maurer.* Provides that localities may not release developer securities or bonds for a housing development until one-hundred percent (100%) of common areas are transferred from the developer to said development's homeowners association. Stafford County has several parcels of land designated as "common area" which are deeded in the name of inactive legal entities. The legislation would seek to provide for the assurance of property transfer, thereby preventing these situations from occurring in the future.
- **Initiative: State Reimbursement of Local Real Estate Tax Relief Expenses for Disabled Veterans** – Petition the General Assembly to provide financial reimbursement to localities providing real estate tax relief to disabled veterans when 1% or more of a locality's tax base is lost due to state-mandated tax relief programs. Stafford County has a high population of veterans and disabled veterans. The Commissioner of Revenue estimates approximately \$3.1M in real estate taxes, or 1.8% of Stafford's tax base, is being exempted due to this mandate.

### Economic Development

- **Position Against: Local Economic Development Expenditures** – Oppose legislation requiring the expenditures of local Economic Development/Industrial Development Authorities to be authorized by a local governing body. Legislation was introduced in 2018 as SB 714 by Sen. Chase.

### Elections

- **Initiative: Date of June Primary Election** – Support legislation moving the traditional date of the June primary election from the second Tuesday to the third Tuesday in June. Legislation to this effect is being introduced by Del. Steve Landes. General Registrar is supportive and Del. Thomas plans to support as well.





### Education

- **Initiative: Public Day School Funding** – Support changes within the Children’s Services Act to provide additional state support for community-based, therapeutic public day schools. Stafford County has documented a potential savings of over 40% per participant annually versus private placements outside the community yet State policy both through the Children’s Services Act (CSA) and the Virginia Department of Education (VDOE) forces the higher cost approach. The use of private day school placements for students has skyrocketed among the Commonwealth for many years yet there have not been any policy changes to support innovative approaches to educating these youths within the community school system, further, private day school rates are disparate across the Commonwealth. The County also supports a pilot initiative within the Children’s Services Act to establish public day schools based on models that are collaborative and demonstrate cost savings for both local and state government.
- **Initiative: Cost of Competing Funds Adjustment Inclusion**– *Adopted by Stafford County Public Schools.* “Advocate for the re-evaluation of Stafford’s current designation as a recipient of 25% of the Cost of Compete Adjustment (COCA) funds for support and instructional staff and urge Stafford’s inclusion as a Northern Virginia locality in light of the I-95 express lanes, federal emissions testing requirements, and inclusion in economic growth figures for Northern Virginia.”
- **Position Against: School Board Practices for School Meals; Position Against** – Oppose any legislation requiring each school board to (i) require each public elementary and secondary school in the local school division to participate in the federal National School Lunch Program and the federal School Breakfast Program administered by the U.S. Department of Agriculture and to make meals available pursuant to such programs to any student who requests such a meal, regardless of such student's family income or whether such student has the money to pay for the meal or owes money for meals previously provided, unless the student's parent has provided written permission to the school board to withhold such a meal from the student, and (ii) adopt policies prohibiting any school employee from (a) requiring a student to throw away a meal after the meal has been served because the student does not have the money to pay for the meal or owes money for a meal previously provided and (b) requiring a student who does not have the money to pay for a meal or who owes money for a meal previously provided to do chores or other work to pay for the meal. Legislation including like language was introduced in 2018 by Del. Roem (HB 1477).
- **Initiative: School Nurses, SOQ-Funded Position** – Adopted by Stafford County Public Schools in 2018. “Advocate for the inclusion of school nurses as a Standards of Quality (SOQ)-funded position with the goal of putting a nurse in every public school. A nurse is a necessity in today’s school environment. The State should recognize this reality and fund these positions as part of SOQ standards.” 2018 legislation sponsored by Del. Pogge/Thomas and Sen. Stuart was tabled due to concerns of an unfunded personnel mandate.
- **Initiative/Budget Language: Teacher Pay; Consistent w/National Average** – *Requested by Supervisor Cavalier.* Petition the General Assembly to introduce legislation, and/or budget language, ensuring teacher salaries in Virginia are, at minimum, consistent with the National Average. A National Education Association report from 2017 identifies the national average for teacher salaries at \$58,353. Virginia is ranked 30<sup>th</sup> nationally with an average salary of \$50,834.



### Environment

- Budget Language: Hydrilla Verticillata – Direct the Virginia Department of Agriculture and Consumer Services to conduct an assessment of the noxious weed, Hydrilla Verticillata, and to include recommendations of measures to mitigate or remove Hydrilla Verticillata. Del. Thomas submitted a bill addressing this topic in 2018. House Agriculture, Chesapeake, & Natural Resources sub-committee voted to continue to 2019 via voice vote.
- Budget Language: Capital Funding for Phase II of Widewater State Park – Request State Budget funding in FY 21 for construction of Widewater State Park Phase II.
- Initiative: Timbering Regulations – *Requested by Supervisor Cavalier*. Petition the Department of Forestry to include in their timbering regulations: 1) A permit requirement for timber harvests and 2) A more restrictive Streamside Management Zone requirement for forestry beyond the Forestry Best Management Practice recommended 50 foot buffer with allowance for removal of 50% of the crown cover or 50% of the basal area. The concern is steaming from clear-cutting operations occurring along Decatur, Widewater, & Arkendale Roads by a private developer.

The Department of Forestry advises no localities have adopted a more restrictive Streamside Management Zone. Research done by various universities as well as the U.S. Forest Service Southern Research Station at Coweeta Hydrologic Lab has shown that the SMZ requirement in Virginia is more than adequate for water quality protection and the industry certification programs have required those BMPs to be implemented. In addition, the VDOF monitors each logging job in the Commonwealth (over 5,100 last year) with multiple inspections (over 22,000) to insure that water quality is protected under the Silvicultural Water Quality Law (Va. Code Section 10.1-1181.1 through 10.1-1181.7).

The VDOF WQ Program is one of the most extensive programs in the nation in insuring that water quality is protected during forestry operations. VDOF believes a wider buffer bill would likely face extensive opposition in the General Assembly.

- Position Generally: Stormwater Management – Stafford County receives numerous complaints annually from citizens experiencing residential drainage issues. Many of the complaints occur in residential subdivisions built prior to the Chesapeake Bay Act of 1988, and similar legislative changes requiring more controlled capture of drainage from impervious surface into to the Chesapeake Bay watershed. The aging of residential stormwater infrastructure along with the financial constraints of private residents presents a challenge for determining corrective action. There are limited opportunities for the County, Homeowners Associations, and Private Property owners to fix drainage issues due to ownership issues. Stafford County supports legislation permitting localities additional measures to control, mitigate, repair, and/or assist with the resolution of private drainage issues. Furthermore, Stafford County opposes any form of legislative action and/or budget language reducing the amount of maintenance funds received by local residencies or field offices of the Virginia Department of Transportation.





### Finance

- Initiative: Jails, Local: Compensation of Costs for Incarceration – “Amends §53.1-20.1 of the Code of Virginia to provide that a jail be compensated for the housing of a convicted felon based on the actual costs of incarceration. Also requires that a felon not be moved to a jail until an agreement to pay actual costs has been reached between the Department of Corrections and the locality or regional authority”. Bill introduced in 2018 as SB 342 by Senator Peake; Passed out of Senate Rehabilitation & Social Services but was passed by in Senate Finance.
- Position Against: Localities & School Divisions; Posting of Register of Funds Expended – Oppose any legislation requiring a locality or school division to post a register of funds expended on said entity’s public website. Legislation was most recently introduced in 2018 as SB 751 by Senator Sturtevant. VACo has consistently opposed the bill as it presents an unfunded mandate for local government and school divisions. Previous iterations of the established posting criteria based on a locality’s population and a school division’s number of students.
- Initiative: Powers of Service Districts; Broadband/Telecommunications Facilities – *Requested by Supervisor Shelton*. Amend § 15.2-2403. Powers of service districts, to add broadband and telecommunications facilities to those types of facilities that may be constructed pursuant to the power granted to service districts. Residents of Marlborough Point have expressed interest in pursuing broadband/cable/telecommunications facility extensions via service district.



### Legal

- Position Against: Changes to Deponent Procedure; Position Against – Oppose any legislation providing that when a local governing body is named as a deponent, it shall designate one or more members of such body to serve as a deponent on its behalf. Presently, Board Members are not required to testify as Legislative Action speaks for itself.
- Position Against: Virginia Freedom of Information Act (FOIA); Civil Penalty – “Provides that in addition to any penalties imposed under FOIA, (i) if a court finds that any officer, employee, or member of a public body failed to provide public records to a requester in accordance with the provisions of FOIA because such officer, employee, or member of a public body intentionally altered or destroyed the requested public records prior to the expiration of the applicable record retention period set by the retention regulations promulgated pursuant to the Virginia Public Records Act (§ 42.1-76 et seq.) by the State Library Board, the court shall impose upon such officer, employee, or member in his individual capacity, whether or not a writ of mandamus or injunctive relief is awarded, a civil penalty of up to \$100 per record altered or destroyed, which amount shall be paid into the Literary Fund, and (ii) if a court finds that a member of a public body voted to certify a closed meeting and at the time of such certification such certification was not in accordance with the requirements of FOIA, the court may impose on each such member voting to certify in his individual capacity, whether or not a writ of mandamus or injunctive relief is awarded, a civil penalty of \$500, which amount shall be paid into the Literary Fund”. Introduced in 2018 by Sen. Surovell as SB 630; passed Senate but left in House General Laws. Later referred to the FOIA Advisory Council for their recommendation. Staff’s primary concern is that the bill holds elected officials personally liable for failing to properly certify closed session.

### Planning & Zoning

- Initiative: Expansion of Local Impact Fee Authority – Stafford County supports the expansion of broad impact fee authority for localities as a means to more adequately meet the increasing need for public facilities and infrastructure driven by the costs of new development without burdening current residents with the cost of new growth through increased real estate taxes. The County is supportive of SB 208, introduced by Senator Stuart, which would “make the existing impact fee provisions available for use by any locality that includes within its comprehensive plan a calculation of the capital costs of public facilities necessary to serve residential uses”.
- Position Generally: Wireless Communications Infrastructure – Legislation enacted during the 2018 General Assembly session (HB 1258 & SB 405) mandates the administrative approval of wireless communications facilities. Administrative approval of these structures greatly diminishes the public hearing process, thereby diminishing the ability of citizens to participate in land use decisions affecting the quality and character of their communities. Further, the mandates imposed by the legislation usurp local zoning authority and places burdens on local government personnel. Stafford County supports the introduction of new legislation designed to counter act and/or relax the effects of HB 1258 and SB 405.



### Sheriff

- Initiative: Amend Virginia Code to Allow Full-Time Employment of Retired VA Law Enforcement Officers in School Security & Remove Restrictions upon Hours Worked – Petition the State to amend and reenact the Code of Virginia as it relates to the Virginia Retirement System to permit retired-law enforcement officers to be hired in full-time school security positions without loss of retirement benefits. Current law limits retired Virginia Police Officers to a maximum of 80% of full-time employment benefits after qualifying for retirement. Further, to amend and reenact the Code of Virginia § 9.1-114, to direct the Virginia Department of Justice to remove restrictions preventing part-time Sheriff's Deputies under the Auxiliary II classification from working more than eighty-hours per calendar year.
- Initiative: Amend the Virginia Code Relating to Criminal Prostitution – Amend the Code of Virginia § 18.2-346 to classify and define masturbation in exchange for money or its equivalent as a form of criminal prostitution. Further, to define and establish penalties for individuals who offer money or its equivalent in exchange for the performance of the aforementioned sexual act. Such individuals shall be guilty of solicitation of prostitution. Stafford County's Sheriff's Office has learned of multiple instances of massage parlors offering and performing masturbation services in exchange for money or its equivalent.

### Transportation

- Position Generally: Transportation – The ease of Transportation is one of the greatest challenges facing Stafford County, Northern Virginia, and the Commonwealth as a whole. Stafford supports legislation and/or budget language providing increased transportation funding to localities. Furthermore, the County supports introduction of a Constitutional Amendment ensuring monies from the Transportation Fund are only spent on transportation projects in the Commonwealth.
- Initiative: Improving Virginia's Smart Scale Program – The Smart Scale program provides a state-wide metric for ranking regional and local transportation projects, to determine the ability of Planning District Commissions or localities to receive funds for road construction projects. Stafford County believes Smart Scale metrics should be enhanced to objectively evaluate, at a minimum; 1) Average daily traffic counts on all seven (7) days of the week and 2) Mandate that Total Cost be used in Smart Scale benefit/cost calculations instead of Smart Scale Request Cost. Regional and national commerce is not limited to only occurring on weekdays. Traffic in Stafford County, Northern Virginia, and the Commonwealth as a whole does not cease on weekends.

Additional consideration should be given to 3) Focusing statewide high priority funding on regional projects instead of small local projects by:

- Excluding stand-alone bicycle/pedestrian projects from Statewide High Priority funding
- Excluding highway projects not physically on a Corridor of Statewide Significance from Statewide High Priority funding
- Set a minimum threshold in the size of a project to qualify for Statewide High priority funding.

All three items identified in this initiative should be introduced as separate pieces of legislation.

## *Planning Commission 2018 Legislative Recommendations*

The Planning Commission forwarded the following list of items for consideration as part of the Board of Supervisor's Legislative Agenda:

1. Preliminary Subdivision Plans - In 2014 House Bill (HB) 209 was enacted. It amended Sec 15.2-2260 of the Code of Virginia to prohibit localities from requiring preliminary plans for new subdivisions of 50 or fewer lots. Preliminary subdivision plans are reviewed by staff and approved by the Planning Commission. Preliminary plans allow a view of how a development plan will fit in with the surrounding community. It allows the developer to address community concerns and significant technical problems in advance of detailed engineering being completed. The Planning Commission has concerns about negative consequences derived by not requiring approval of such plans for small projects. Additionally, the Planning Commission is concerned about potential attempts to circumvent the preliminary plan review process. A developer could submit several subdivision plans of 50 or fewer lots using different subdivision names from the same tract of land. By doing this no single plan would trigger the requirement for preliminary plan approval. However, the total number of lots for those plans would be more than the minimum 51 lot requirement for review and approval of a preliminary plan. Examples of this type of circumvention have been observed with the Rivers Bluff (57 lots) and Liberty Hall Estates/Meadows at Liberty Hall (98 lots). The current legislation does not provide redress for this type of circumvention. The Planning Commission recommends that additional measures be added to the legislation allowing the Planning Commission or subdivision agent to require preliminary subdivision plans where more than 51 lots have been divided from single tract of land or multiple adjacent tracts of land.
2. Cluster Development - State Code limits the ability of a locality to regulate cluster development. Localities cannot create stricter regulations for cluster development than for conventional non-cluster developments. The Planning Commission has observed development projects where the required open space that was shown on the plan did little to meet the intent of the state code and the Comprehensive Plan. There are limitations on the types of land that can be excluded from required open space in cluster developments. The Planning Commission agrees with Delegate Thomas' bill HB-341 that stormwater management facilities should be excluded from required open space lands. These types of facilities are man-made and do not exist in a natural state. Such facilities are often fenced off for safety reasons and do not contribute to agriculture, forestry or land conservation purposes.
3. Stormwater Drainage - The County received numerous complaints each year from citizens regarding new and existing drainage issues. Most sources of complaints occur in more densely developed areas. There are limited opportunities for the County, HOAs and private property owners to fix these problems due to cost and ownership issues. Consideration should be given to require new development to overcompensate regarding stormwater detention and release of stormwater discharges. This should be considered as a topic to be addressed in more detail.
4. Wireless Communication Infrastructure - The General Assembly passed new legislation restricting localities ability to regulate the placement of communication antennas on buildings and in public right-of-ways. The Planning Commission believes that the legislation adversely affected the ability of a locality to regulate its physical appearance and usurped the County's zoning

authority. The Planning Commission desires for new bills to counter-act the effects of the legislation.

5. Impact Fees – The State Code limits the ability of localities to negotiate proffers to off-set impacts of new development subject to zoning reclassifications. The current system is flawed and unwieldy. It does not allow for accepting proffers based on the future needs for County infrastructure as identified in the Comprehensive Plan. Senator Stuart sponsored SB-208 which proposed allowing localities to impose impact fees for other public infrastructure in addition to transportation. The General Assembly established a study committee to convene this summer and discuss “proffer reform”. The Planning Commission supports Senator Stuart’s bill and the notion of imposing impact fees on all new development rather than negotiating limited proffers on properties subject to zoning reclassifications. Impact fees can be applied uniformly and are more equitable to developers than the current proffer system.
6. Transportation Funding Criteria - Smart Scale is a state-wide criteria for ranking transportation projects. The ranking determines the ability to receive funds for road construction projects. The Planning Commission believes that the background materials for ranking road improvement projects should be objectively evaluated on weekend traffic volumes rather than weekday traffic volumes. Regional and national commerce does not occur only on weekdays. Prior Smart Scale selected projects appear to be focused on resolving weekday traffic congestion rather than weekend traffic congestion which is more severe due to larger traffic volumes in both directions for traffic entering and leaving the region.



# Stafford County School Board Preliminary Legislative Priorities for FY20\*

## 1. Federal

- Pursue an amendment to impact aid legislation to broaden current military and government workplace designation to include the District of Columbia and Maryland (expand from current Virginia limitation).

## 2. State

- Advocate for the re-evaluation of Stafford's current designation as a recipient of 25% of Cost-to-Compete-Adjustment (COCA) funds; and urge inclusion as a Northern Virginia locality in light of the I-95 hot lane, emissions testing, and inclusion in economic growth figures for Northern Virginia.
- Advocate for the inclusion of psychologists and social workers as standards-of-quality (SOQ) funded positions. The increase of student violence and discipline challenges within our schools -- *that can be traced, at least in part, to the mental health needs of our students* -- dictate funded inclusion of these positions in the local mental health delivery model.
- Advocate for additional state funding for the Pre-K program for two-year-olds. Virginia is the only state in the U.S. that mandates Pre-K program for children of this age within the school system; however, adequate funding is *not* provided by the state for this additional Pre-K program. State funding should cover ALL costs of the program and should, at a minimum, mirror the state funding for general education students as well as additional funding for the specialized services required to meet the needs of these young children.
- Advocate for additional funding for the Pre-K programs for three- and four-year-olds, since these programs are housed in our elementary schools and utilize resources shared with general education students. Per-pupil funding for these programs should, at a minimum, equal or mirror the funding of general education students and include additional funding for the required special services and facilities and equipment.



- Advocate for the Virginia Department of Education (VDOE) to reexamine the following: Reciprocity; endorsements for 24 semester hours or less; and experiential route to licensure.

*VDOE indicated last year that there were waivers available and flexibility for local school divisions in regard to hiring. However, no waivers were granted to Stafford County Public Schools to allow the hiring of people deemed qualified to teach certain subjects in SCPS. Real flexibility is required to meet the teaching shortage in general as well as specific content areas. Several qualified individuals were unable to be hired this past year in critical need areas due to the VDOE continued interpretation of these requirements.*

- Advocate for the VDOE to permit localities additional flexibility regarding hiring of qualified teachers and setting standards for adequate oversight of teachers hired who do not meet the VDOE standards. The oversight of teachers rests with the school division which is focused on meeting the needs of its local student population.
- Urge state legislature to address the current and future shortage of teachers within the Commonwealth.

### 3. Local

- Urge the Board of Supervisors' adoption of the state penalty of \$250 for drivers who illegally pass school buses, and the use of bus cameras for this purpose. (See [Virginia Code 46.2-844](#).) The State has granted localities the authority to issue tickets through the use of mounted bus cameras. The camera equipment can be provided by a vendor and the vendor shares in the revenue from the tickets issued without cost to the school division for the equipment. In light of the recent hit-and-run incident involving a school bus and numerous reports regarding cars passing school buses (especially our special needs buses) with flashing red lights, this safety measure is warranted.

### 4. VSBA

- The VSBA legislative position statement will be provided to the School Board after the VSBA Board of Directors has released their recommendations. As is done every year, VSBA delegates will vote on final policy initiatives at the annual VSBA convention on November 15, 2018.



# VACo Region 7 – North Central Virginia 2019 Legislative Issues FIRST DRAFT

*August 1, 2018*



## PRIORITY ISSUES

### Children's Services Act

Since its foundation in 1992, the Virginia Children's Services Act has led the nation by consolidating funding sources and carefully coordinating treatment services for children with severe and significant needs. This care coordination has proven successful in both meeting needs for individual children, and in proving that state and local responsibility and cost sharing can and does work.

It is critical that when the General Assembly or the State Executive Council (SEC) directs changes in CSA law, policy or implementation guidelines the outcomes benefit those served and respects the shared-cost relationship of the Commonwealth and localities. When cost savings decisions are made they must show savings for both funding partners. Furthermore, the General Assembly and the SEC must direct the state Office of Children's Services staff to work closely with local governments in a manner that further enhances the collaborative partnership established in the CSA and improves the outcomes observed in this special population of children.

The Region supports the current structure under the CSA law that vests with the local Family Assessment and Planning Team (FAPT) and Community Policy and Management Team (CPMT) the responsibility to ensure that the proper services are selected for each child, to be provided by properly licensed providers, and at reasonable costs to the public.

Finally, the Region strongly supports the modification of current policy that CSA funds are not available to provide services in any educational setting during the school day. This policy blocks the use of CSA funds for proven cost-effective community based services that could support students requiring more restrictive type educational settings such as private day schools. Furthermore, the Region supports changes in policy to provide additional state support for community based therapeutic public day schools that operate very similarly to regional day programs in other communities. Stafford County has documented a potential for savings of over 40% per participant annually versus private placements outside the community yet State policy both through CSA and VDOE forces the higher cost approach. The use of private day school placements for students has skyrocketed across the Commonwealth for many years yet there have not been any policy changes to support innovative approaches to educating these youths within the community school system, further, private day school rates are disparate across the Commonwealth.



# VACo Region 7 – North Central Virginia 2019 Legislative Issues FIRST DRAFT

August 1, 2018



## Improving Virginia's Smart Scale Program

The Region supports three changes to Smart Scale:

1. Focus statewide high priority funding on regional projects instead of small local projects by:
  - a. Excluding stand alone bike/ped projects from Statewide High Priority funding.
  - b. Excluding highway projects not physically on a Corridor of Statewide Significance from Statewide High Priority funding (Corridors of Statewide Significance generally include Interstates and a few select primary highways e.g., Route 17 and 29)
  - c. Set a minimum threshold in the size of a project to qualify for Statewide High Priority funding, e.g. \$10 Million.
2. Mandate that average traffic counts used in Smart Scale metrics must cover all 7 days of the week instead of only average weekdays.
  - a. Many major roadways statewide can have more traffic congestion on weekends than weekdays.
3. Mandate that Total Cost be used in Smart Scale benefit/cost calculations instead of Smart Scale Request Cost.

## Viability of Cash and Off-Site Proffers

Conditional zoning was authorized by the Virginia General Assembly over 30 years ago. The goal was to address the rigidity of traditional zoning methods to address conflicts between competing and incompatible land uses.

As designed and utilized for decades, conditional zoning allows reasonable conditions, known as proffers, to be offered by the applicant during a rezoning process as a way of mitigating the impacts of the proposed rezoning. Proffers could include land, infrastructure, cash or other conditions or constraints on the use of the property. These proffers, if accepted by the governing body as part of the rezoning approval, become part of the zoning ordinance as it applies to that property. In theory, conditional zoning allows land to be rezoned that might not otherwise be rezoned because the proffers can address community concerns arising from the rezoning. In the 2016 session SB549 created a new section, 15.2-2303.4, which dramatically changed the way off-site and cash proffers can be offered, considered, accepted and used to support public facilities.

Section 15.2-2303.4 (2016) imposes limitations and uncertainty including:

- If an applicant submits an amendment to a project's proffers that were approved prior to July 1, 2016 do all cash or off-site proffers associated with the project come under the new statute or simply those proffers that are the subject of the amendment?



# VACo Region 7 – North Central Virginia 2019 Legislative Issues FIRST DRAFT

August 1, 2018



- What is the definition of “specifically attributable” and how does this impact a proposed rezoning that generates a need for “some” capacity improvement?
- In the case of some capacity improvement need it must be an “identifiable portion of a need.” What does this mean and how is it determined?
- Should utility facilities be included as a category of public facility that may be addressed through proffers?
- What level of formality is required to establish that a proffer has been “suggested, requested, or required” by the locality?
- The uncertainty regarding the reasonableness of proffers, coupled with the loss of the presumption of validity, the “clear and convincing” standard of proof, and the potential award of attorneys’ fees, has caused localities to limit proffer discussion during the rezoning process, or to forego proffer authority altogether.

When the Code of Virginia creates uncertainty local government attorneys, cautious by nature, advise their clients to err on the side of caution. Consequently, the very dialogue and negotiation that conditional zoning was designed to foster has been severely limited. This limits the ability of developers to respond to the concerns of neighbors and consequently jeopardizes private development. The 2016 change is therefore having a negative economic impact.

With the most recent changes relative to cash and off-site proffers, the time might be right to consider impacts fees as an appropriate means for supporting the capital improvement costs driven by new residential development. **The Region therefore supports SB208 (Stuart) that will be considered by the full Senate early in the 2019 legislative session.**

## OTHER ISSUES

### Tax Reform and Local Revenues Generally

Local taxes such as the Business Professional and Occupational License tax (BPOL) and the Machinery and Tools tax (M&T) are frequently mentioned as taxes the General Assembly should consider for elimination. We recognize the need to promote business growth and support efforts to do so but those that can result in reducing local services that support economic development or raising other taxes will undermine the intended purpose. Before tax system changes are enacted the Region supports thorough study of the entire system and the consequences, both intended and unintended, associated with potential changes.

### Transportation Generally

The Region applauds the efforts made over the past several years to adequately fund our growing transportation needs but the job is not done. Sound decision-making must continue to recognize the linkage between land-use and transportation decisions to achieve cost-



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effectiveness and to retain quality of life. The Region supports efforts to enhance transportation funding. Growing transportation needs and the deterioration of critical transportation infrastructure, e.g., roads, bridges, is creating detrimental impacts to economic vitality and safety across the region.

The Region strongly encourages VDOT to fully utilize its funding authorization for the Revenue Sharing Program and abandon plans to reduce program funding in the future.

We recognize that the General Assembly and the Administration will continue to review the structure of our transportation system and may consider the potential for devolution of certain functions that have been the responsibility for the Commonwealth for almost a century, such as the secondary road network. The Region is opposed to devolution of state transportation responsibilities to counties and we urge the Administration and the General Assembly to work collaboratively with local governments during such reviews.

The Region supports efforts to improve rail service along the I-95 and Route 29 corridors. As part of this efforts the Region encourages the Commonwealth to work cooperatively with the Region's localities to identify potential alternatives and to consider the potential impacts such efforts can have on property owners in or near the corridor.

The region supports efforts to maintain safe and reliable transit services and encourages the Commonwealth to take steps to address the pending decrease in funding to the State Transit Capital Program. The use of bond revenues from Transportation Capital Project Revenue (CPR) for transit capital projects at the end of FY 2019 may shift the funding burden for transit projects to local governments, potentially resulting in higher fares, use of older vehicles and equipment, and cuts to transit service hours. The region supports efforts to identify a steady, reliable transit capital program revenue stream in support of safe and efficient transit operation.

## **Broadband**

The Region strongly supports efforts to expand broadband capabilities in underserved and rural areas including strengthening local authority to deploy broadband directly or through public-private partnerships. Efforts to enhance the deployment of new technologies must include expansion of high-speed service to rural areas.

## **Chesapeake Bay Restoration and Stormwater Management**

The proposed Chesapeake Bay TMDL and Virginia's Watershed Implementation Plan (WIP) requires 2-year milestones for the Commonwealth and its MS-4 localities. Without aggressive state investment in meeting these milestones Virginia localities will be under the threat of limited economic growth, including non-MS-4 localities. The Region urges the Governor and the General Assembly to be actively involved in identifying and resourcing proven traditional as



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well as innovative solutions. The Region supports continued efforts to improve administrative efficiencies of the state-local relationship. As experience is gained we believe needed enhancements will be identified and following the principles of adaptive management we can respond with appropriate legislative or regulatory revisions.

## **Alternative On-Site Septic Systems (AOSS)**

AOSS are an important means of safely treating wastewater in areas where traditional septic treatment systems will not work. With regulation of these systems vested largely with the Virginia Department of Health localities have limited ability to respond when an AOSS unit does not meet treatment standards. The Region encourages the General Assembly to provide adequate authority for VDH or localities to respond to AOSS failures to protect the public health and water quality especially in circumstances where an AOSS owner refuses to properly care for the system or when the owner cannot afford to make needed repairs or improvements.

## **Water Supply**

The Region is concerned about safe, adequate and affordable water supply for human consumption and economic development. The Region supports policies and financial investments by the Commonwealth that promotes long-term solutions to the needs of our communities for a safe and reliable water supply.

## **State Funding for Local and Regional Jails**

In 2010, the General Assembly reduced the amount paid to local jails for local inmates from \$8 per day to \$4 per day and reduced the amount for state responsible inmates from \$14 per day to \$12 per day. This saved the state over \$19 million annually by transferring the cost to local taxpayers.

The Region urges the General Assembly to return to paying \$14 per day for all state responsible inmates for whom they are now paying \$12 per day, the additional cost to the state would be approximately \$6 million annually. At this time the \$4 per day payment for local inmates would not be changed.

## **Education Funding**

The Region is deeply concerned by the trend of declining state financial support for K-12. The Region encourages the Commonwealth to reverse this trend including among other things important school safety efforts such as the funding of School Resource Officers in all schools. The Region also supports the protection of local governing body authority to evaluate and approve any reallocation of year-end fund balances.

## **Economic and Workforce Development**

The Region supports continued efforts by the Commonwealth to enhance a broader-based economy and increase private sector employment opportunities. The Region further supports





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enhanced funding of workforce training programs to support credential attainment by workers who support businesses and industries essential to the new Virginia economy.

## **Local Land Use Authority**

The Region strongly supports the maintenance of all existing authority of local government for planning, zoning and related activities. While efforts to enhance a broader-based economy rightly include examination of local rules and regulations that can impact private investment decisions such examination must balance the economic goals with the goals of protecting existing communities and property rights. Decisions impacting our neighborhoods and communities are most appropriately made at the neighborhood and community level.

## **Mental Health Services**

The Region strongly supports a sustained focus by the state on Virginia's mental health services system to ensure, through evaluation and investment, that appropriate and effective outpatient and in-patient services are available across the Commonwealth. The Region encourages reforms provide for alternative placement for local jail inmates with serious mental health issues that should not be left to jail personnel to address.

## **Substance Abuse**

According to the American Public Health Association (APHA), every 19 minutes, someone in the United States dies from and unintentional prescription drug Overdose. This epidemic is having devastating impacts on families and communities. The Region supports legislative and educational efforts to emphasize prevention and address misuse. The APHA recommends legislation to address physical and mental status examination, doctor shopping, tamper-resistant prescription form requirements, regulation of pain management clinics, prescription drug monitoring, prescription drug overdose emergency response immunity and access to naloxone. Emergency community-based support systems need strengthening to enable local agencies to respond to the needs of impacted families.

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# **2019 Legislative Timeline**

## ***March 2018***

- ~~March 10<sup>th</sup>: General Assembly Adjourns~~
- ~~March 16<sup>th</sup>: Submission of Final 2018 Legislative Affairs Report to BOS.~~
- ~~Development of Legislative Calendar and Master List for 2019.~~

## ***April 2018***

- ~~Special G.A. Session in early April to consider Governor's Vetoes and finalize Budget.~~
- ~~April 13<sup>th</sup>: Submit Final Legislative Report to BOS & Staff~~
- ~~Staff to review final bills on tracker for internal discussion.~~

## ***May 2018***

- ~~May 1<sup>st</sup>: Eckert Seamans Post Session BOS Update~~
- ~~Notice of contract renewal to be sent by Purchasing to Eckert Seamans.~~
- ~~May 14<sup>th</sup>: Senate returns to resume Budget work~~
- ~~Solicit Staff/BACC/SCPS Feedback about Potential Legislative Initiatives~~

## ***June 2018***

- ~~June 15: 2:30 p.m. Legislative Committee Planning Conference Call~~
  - ~~2018 Session Conclusions~~
  - ~~2019 Political Climate~~
  - ~~Review of Master List, BACC suggestions, & SCPS Items~~
  - ~~Objective: Review staff suggestions & identify which items to petition for inclusion into VACo Program~~

## ***July 2018***

- ~~Notify VACo of Stafford supported issues of statewide significance for inclusion into the VACo 2019 Legislative Program.~~
- ~~July 24: Proffer Meeting hosted by Senator Stanley~~

## ***August 2018***

- ~~August 16: VACo Summer Steering Committee Meeting—Fredericksburg Expo Center.~~
- ~~August 30: VACo Region 7 & 8 Meeting—Belmont~~

## ***September 2018***

- ~~September 7: Complete Draft of Legislative Program~~
- September 18: 10:30 a.m. Legislative Committee Planning Conference Call
  - Review of VACo Steering Committee & Region 7 Meeting
  - Richmond News
  - Objective: Recommend Legislative Priority Initiatives for 2019,
- Draft Board Packages for Consideration of Legislative Initiatives.
  - Include updated draft of 2019 Legislative Program.

### ***October 2018***

- October 2<sup>nd</sup>: Legislative Initiatives to be discussed by the Board of Supervisors under new business.
- October 16<sup>th</sup>: Anticipated adoption of 2019 General Assembly Initiatives

### ***November 2018***

- November 6, 2018: Election Day
- November 11-13: Annual VACo Conference in Bath County, VA
- November : Pre-filing of Legislation Begins
- November 27: Legislative Dinner
- Staff to prepare resolutions endorsing VACo's Platform and the VACo Region 7 Platform.

### ***January 2019***

- January: Pre-filing of Legislation Ends/General Assembly Session Begins

### ***February 2019***

- February: General Assembly Session Ends (45-day Session).