

City of Alexandria, Virginia

MEMORANDUM

DATE: MARCH 15, 2018

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: MARK B. JINKS, CITY MANAGER /s/

SUBJECT: CONSIDERATION OF A FINAL UPDATE ON THE 2018 GENERAL ASSEMBLY SESSION

ISSUE: Update on the 2018 General Assembly Session.

RECOMMENDATIONS: That City Council receive this report.

DISCUSSION: The 2018 General Assembly Session adjourned on March 10. The Governor now has 30 days to review all the legislation that was passed, and recommend amendments or vetoes to bills as he deems appropriate.

When the General Assembly adjourned on March 10, it did so without having approved a budget for the 2018-2020 biennium. The Governor has called a Special Session for April 11 for the expressed purpose of adopting budgets for the Commonwealth.

In addition, the Reconvened, or Veto, Session – where the General Assembly accepts or rejects the Governor’s amendments and vetoes to bills – will be held April 18.

City Package. The following is a review of actions taken regarding issues in the City’s 2018 Legislative Package. Attachment 1 is a more detailed status report on City Package bills.

Two pieces of legislation included in the City’s Legislative Package and of particular interest to the City have been signed into law by the Governor:

Annual ABC License for the Office of Historic Alexandria: SB 588, patroned by Sen. Adam Ebbin, authorizes museums owned and operated by localities to obtain an annual ABC license to serve mixed beverages at events hosted at City-owned museums (rather than having to file for individual licenses for individual events). The bill passed both the Senate and the House by wide margins and was signed by the Governor on March 5 with an effective date of July 1, 2018.

Confidentiality of Residential Building Plans: SB 921, patroned by Sen. Ebbin, allows residents and City staff to see single-family residential building plans and drawings, which is especially important in cases of Board of Zoning appeals. The bill passed out of both the Senate and the House unanimously and was signed by the Governor on March 2 with an effective date of July 1, 2018.

In addition to these two pieces of legislation, other bills supported by the City's Legislative Package that were successful this year include:

NoVa Gas Tax Floor: Legislation to set the minimum regional gas sales tax in Northern Virginia and Hampton Roads at the price of gas in 2013, as the statewide gas tax has been since then, was passed and signed by the Governor. Without the floor, Northern Virginia has had less funding than expected as gas prices have fallen, which has restricted road projects. Revenue from this regional gas tax floor is key to the State's transit funding plan. The floor will generate an additional \$45.2 million for the Northern Virginia Transportation Commission, including \$18.6 million for a proposed contribution to the Washington Metropolitan Area Transportation Authority for long-term repairs to the Metro transit system, and \$8.6 million for the Virginia Railway Express commuter service in the region.

Raising the Felony Threshold: Legislation passed both the House and the Senate and was signed by the Governor to raise the felony threshold from \$200 to \$500. This was part of a bipartisan compromise to both raise the felony larceny threshold (from \$200 to \$500) and ensure that crime victims are paid restitution owed to them.

Early and Absentee Voting: While House bills related to early and absentee voting were defeated, all Senate bills related to early and absentee voting were rolled into an interim subcommittee study. The Senate's move to study these issues during the interim is generally seen as the most positive action that has happened on this issue to date.

Other legislation supported in the City Package that was ultimately defeated includes:

- Legislation allowing localities with law libraries to raise certain fees to fund their law libraries;
- Legislation to allow local school boards to set the opening day of school;
- Legislation to put current "Ban the Box" policies into State law;
- Legislation to make it illegal to use a "handheld personal communications device" while driving, unless it is being used "hands-free";
- Legislation to allow localities to move statutes and memorials related to wars;
- Legislation to raise the statewide minimum wage or offer a local option for localities to raise their minimum wage;
- Legislation to require drivers to stop, not just yield to pedestrians;
- Legislation to authorize in-state tuition to certain students who have applied for permanent U.S. residency;

- Legislation to authorize drivers' licenses for undocumented immigrants;
- Legislation to amend the City's Charter, which would have expanded the City's tree preservation authority.

In addition to legislation included in or supportive of the City's Legislative Package, City staff has been involved in a number of other issues of interest to the City, including:

Wireless Infrastructure. Efforts are underway to request the Governor veto a series of wireless infrastructure bills that would have significant negative impacts to the City as well as many other localities.

HB1258 and SB405 would allow the wireless industry to place a cell tower that is up to 50 feet tall on a public right-of-way without going through the zoning process. This not only erodes local land use authority, it removes the ability of residents to voice any concerns over the placement of these structures. HB1427 and SB823 set statewide fees for the use of public rights-of-way. A statewide fee structure will not reflect the true value of the use of the public rights-of-way, with rights-of-way valued the same in localities as disparate as Alexandria and Abingdon, but it is also true for public rights-of-way within a jurisdiction that may be valued differently.

Through a letter from the Mayor to the Governor and ongoing work with VML and VACO, Alexandria has expressed its opposition to these bills and asked the Governor to delay or veto these bills. Fairfax, Manassas, Loudon, Virginia Beach, Newport News and the Town of Middleburg have also sent letters to the Governor asking for his veto.

WMATA and Other Transit Funding. The General Assembly agreed on a package of revenue and reforms that will provide WMATA with \$154 million a year in permanent, dedicated funding. The bill (SB 856 and HB 1539) reaches \$154M for WMATA funding through dedicated "off the top" money from the state, existing Northern Virginia Transportation Authority (NVTA) revenues (funded by localities including Alexandria), and the redistribution of revenue from the existing transient occupancy tax, grantors tax and motor vehicle rental tax for WMATA purposes. It also allocates funding created through the Northern Virginia portion of the gas tax floor bill to WMATA, VRE and PRTC.

There are some concerns that the funding plan redirects funds away from other transit priorities, especially road and other transportation improvements in Northern Virginia. We are continuing to work to mitigate these impacts through negotiations with the administration.

Funding provisions in SB 856 and HB 1539 include:

- \$20 million in existing Northern Virginia Transportation District Fund directed to WMATA Capital Fund.
- \$27.12 million from existing Northern Virginia Transportation Authority (NVTA) revenues directed to WMATA Capital Fund. Each WMATA locality will pay an amount equal to the share of their NVTA distribution.

- \$29.7 million from existing 2% regional Transient Occupancy Tax (TOT) directed to WMATA Capital Fund.
- \$44 million from existing Grantor's tax directed to the WMATA Capital Fund. This excludes Prince William County, Manassas Park, and City of Manassas from having to contribute to WMATA, but funds must be spent on transportation projects.
- \$10 million from 1% of existing motor vehicle rental tax directed to WMATA Capital Fund.

Reforms in these bills include:

- A provision that operating assistance for WMATA cannot increase by more than 3% annually. If operating assistance requested increases by more than 3% then the Commonwealth Transportation Board (CTB) shall withhold 35% of provided funding.
- WMATA must create a detailed capital improvement program (strategic plan) covering the current fiscal year and, at a minimum, the next five fiscal years, and hold at least one public hearing on such strategic plan in a locality served by Metro. Failure to do so would result in 20% provided funding being withheld.
- Stipulates that only appointed WMATA Board members may take action at official Board meetings, not their alternates.
- The establishment of a four-member Metro Reform Commission. The Commission will advise and make recommendations on reforms to the National Capital Area Interest Arbitration Standards Act.
- A Northern Virginia Transportation Commission (NVTC) report to the Governor and General Assembly that includes: financial performance of Metro, financial performance of bus transportation, strategies to reduce costs, and measures to improve overall safety and conditions of Metro.
- That WMATA cannot discriminate employment based on union-participation for projects initiated on and after July 1, 2018 and located solely within the Commonwealth.
- The effective date for this legislation is not until 30 days after the District of Columbia and the State of Maryland each enact legislation or take actions to provide dedicated funding for the WMATA.

State Budget. Since the General Assembly adjourned on March 10 without having approved a budget for the 2018-2020 biennium, the Governor has called a Special Session for April 11 for the expressed purpose of adopting budgets for the Commonwealth.

The budget impasse is due to disagreement between the House and Senate over whether to expand Medicaid to about 300,000 low-income adults, with the proposed House budget including Medicaid expansion but the proposed Senate budget not including any kind of Medicaid expansion. The Governor has made Medicaid expansion a top priority and has said that if the legislature does not send him a budget that would expand Virginia's Medicaid program, he will propose an amendment that does.

The “dual track” Medicaid expansion approach included in the House’s budget would require the state to ask for federal approval of an amendment to the state Medicaid plan to expand eligibility to people earning up to 138 percent of the federal poverty level, or less than \$17,000 a year. The state would also apply for a Section 1115 waiver with requirements for recipients that would include work, training, education or public service.

Note that the lack of a budget deal will likely affect local governments and school boards in their budgeting planning. In the coming weeks, local governments and school boards may have to finalize their own budgets and spending plans without final word from the state as to requested funding or potential fiscal impacts.

Since negotiations on the budget are still ongoing, no issues of interest or impact to the City have been resolved, including:

- The item in the Governor’s proposed budget that earmarked \$20 million in bond money for the City’s Combined Sewer Outfall (CSO) project was not included in either the House or Senate’s budgets. It is unlikely that money will be put back into the budget this year as part of the ongoing budget negotiations;
- The Senate included \$1.1 million in general fund money in the second year of the biennium as the State’s portion of the one-time relocation costs for the City’s Health Department.
- The House added an additional \$6.6 million in FY19 and \$13.8 million in FY20 to the HB 599 program to support local police departments. The Senate’s budget level funded the program for both years of the biennium, eliminating the House’s 2nd year increase. The impact of this proposed increase on the City for FY 19 and FY 20 is not yet known, but the increased funds would be distributed to eligible localities proportionate to the amount each eligible locality received in FY 2018.
- The House increased funding for the salaries of State-supported local employees by 2% by July 2019. The Senate expressed a desire to do the same but wants to wait until next session to determine whether there is enough revenue to fund these raises.
- Both the House and Senate included increased funding for K-12 education, including increases for Alexandria schools in both House and Senate budgets.
- There is \$2.3 million included in the House budget for enhancing and improving the Virginia Preschool Initiative (VPI) program. In addition, the Senate budget includes a \$525 per pupil increase for VPI.
- The House included an increase GO Virginia funding by \$5 million in FY 19 and \$10 million in FY 20 over FY 18 base. The Senate held GO Virginia funding steady.
- A Senate budget amendment transfers \$2 million from the Communications Sales and Use Tax to State General Fund. The transfer of these funds away from localities general funds would lessen the revenues that, in the past, were earmarked for localities. When localities agreed to the restructuring of telecommunications taxes in 2006, there was an understanding that these tax revenues – although appropriated by the State – were held in trust for localities. Taking these funds for general State purposes is not in keeping with

that agreement and sets an extremely worrisome precedent for future diversion of these funds. The direct impact to the City of this potential revenue loss is not immediately known.

- A Senate budget amendment includes language which would require localities in which local law enforcement uses body-worn cameras to hire and pay for Assistant Commonwealth Attorneys at the rate of one Assistant Commonwealth Attorney for up to 50 body-worn cameras used by patrol officers in that locality and one Assistant Commonwealth's Attorney for every 50 body-worn cameras thereafter. Under this prescriptive staffing ratio, this unfunded mandate would require the City to hire six Assistant Commonwealth's Attorneys if we had body worn cameras on all of our about 300 officers – a fiscal impact of \$0.8 million to \$1.0 million annually to the City.

ATTACHMENT: City Package Related Bills – Final Status

STAFF: Sarah G. Taylor, Legislative Director