



Legislation Text

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City of Alexandria, Virginia

MEMORANDUM

DATE: FEBRUARY 9, 2015

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

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

DOCKET TITLE:

Update on the 2015 General Assembly Session.

ISSUE: Update (No. 2) on the 2015 General Assembly Session.

RECOMMENDATION: That City Council approve the legislative positions included in Attachment 1 (Recommended Positions on Bills of Importance to the City), as recommended by City Council's Legislative Subcommittee.

DISCUSSION: The 2015 General Assembly Session has now passed the halfway mark. Beginning Wednesday (February 11), each house may consider only legislation of the other house, except for the budget bill and resolutions that commend or memorialize people or organizations.

On February 8, the House and Senate money committees reported their proposed amendments to the biennial budget; these are reported on below. During the next three weeks, the House and Senate will seek to reach agreement on the budget and other bills that have not yet been defeated.

City Package. The following bills seek the enactment of proposals addressed in the City's legislative package. Attachment 2 is a more detailed status report on City Package bills.

- House Bill 1682 and Senate Bill 1218 are Charter bills, introduced at the City's request to "clean up" the City Charter. SB 1218 has been passed by the Senate and now goes to the House; HB 1682 has passed the House and now goes to the Senate. Since the bills are identical, final passage of each should not present any problems.

- House Bill 1867 seeks to clarify some of the Virginia Code sections dealing with mold remediation in residential rental units. It also seeks to require that tenants be made aware of, and given access to, any written documents produced by the landlord or his contractor relating to the removal and remediation of the mold. The bill has been approved by the House and now goes to the Senate for its consideration.
- All bills that seek to amend the Virginia Constitution or Code to authorize same sex marriage have been defeated or are headed for defeat.
- The House has not approved any of the proposed constitutional amendments that would automatically restore (or allow the General Assembly to enact a law to do so) the voting rights of felons who have completed their sentence, probation, and parole. The Senate, however, approved one such measure (SJ 238), and it now goes to the House for its consideration.
- The House has defeated all house bills that would have allowed anyone to vote absentee without having to give a reason for doing so, as well as those that would have allowed this only for those over 65. The Senate has passed a bill (SB 719) that would let anyone 65 or older vote absentee without providing a reason. SB 719 now goes to the House.
- All bills that seek to raise the minimum wage are now dead.
- It does not appear that any legislation will pass that would either support or overturn Attorney General Mark Herring's ruling that students who are not American citizens, but whose presence had been approved under the federal DACA program, can become eligible for in-state tuition.
- Legislation to regulate Transportation Network Companies has now passed both the House and Senate. It does not include any provisions affecting the City's regulation of taxicabs. The bills do include most of the consumer protections that the City has recommended.
- Although legislation to "Ban the Box" (prohibit State agencies from asking on employment applications whether the applicant has ever been charged with or convicted of any crime, unless the position was a "sensitive" one) was defeated in the House, the Senate has approved such a measure (SB 1017). It now goes to the House.
- All legislation to place further limits on the interest that can be charged on payday and car title loans, or to regulate where these loan offices can be located, has been defeated.
- Legislation that would limit the retention of police department license plate reader data to 7 days or less is being passed in both the House and the Senate in spite of the fact that local police departments

throughout Virginia oppose it (they would like to retain this data for at least 6 months).

- Affordable Care Act Medicaid expansion legislation was introduced in the House. As expected, it was easily defeated.
- SJR 284, which seeks to amend the State constitution to require the creation of the Virginia Redistricting Commission, has now passed the Senate with bipartisan support. If the amendment is enacted, the non-legislative Commission that will be created will be given authority to redraw congressional and General Assembly district boundaries after each census; the new boundaries must be respectful of political boundaries as much as possible, and be composed of compact, contiguous territory.

Real Property Tax Exemptions--House Joint Resolution 597. This Resolution proposes to amend the Virginia Constitution to allow the General Assembly to provide a real property tax exemption for the primary residence of the surviving spouse of any public safety employee killed in the line of duty. This is similar to a Constitutional amendment that was just enacted to provide such an exemption to surviving spouses of military personnel killed in the line of duty.

While local governments are sympathetic to the needs of surviving spouses, they believe that the General Assembly should not force unfunded mandates such as this on localities. If the General Assembly mandates tax relief, it-not cities, counties, and towns-should pay for it through a tax credit, tax deduction, or some other means.

HJR 597 was assigned to a subcommittee of the House Privileges and Elections Committee; the subcommittee recommended its passage. When it came up in full Committee, Delegate Rob Krupicka (a committee member) successfully had it amended it so that the General Assembly could only authorize localities to give this tax relief-but not require them to do so. If the Resolution goes through the 2015 General Assembly with this language, it will have to do so with the exact same language in the 2016 Session in order to go to the voters for their approval in November 2016.

Variances. HB 1849 (Danny Marshall) rewrites a good deal of the state law that governs the way localities and their boards of zoning appeals consider and grant variances. Among the changes it makes are these:

- Current law defines a variance as a deviation from the provisions of a zoning ordinance that regulate size, the area of a lot or parcel, or the size, area, bulk, or location of a structure. HB 1849 adds to the definition the *shape* of a parcel of land, and the *height* of a building. Current law also allows for a variance when not giving one “would result in unnecessary or unreasonable hardship to the property owner.” The proposed change will say instead that a variance should be given when not giving one would “unreasonably restrict the utilization of the property.”
- Current law says that something exceptional and unique about the property (e.g., size, narrowness, or topography) would effectively prohibit its use if it must be developed according to the provisions of the zoning ordinance. The bill more generally says that a variance should be granted if a strict application of the zoning ordinance “would unreasonably restrict the utilization of the property.” It also says that a variance should be granted if it would “alleviate a hardship due to a physical condition relating to the property or improvements thereon” at the time the zoning ordinance was enacted, and the granting of the variance would not be of “substantial detriment” to adjacent or proximate property owners.

Local governments would like for the bill to die, but that is not going to happen (the development community is strongly behind it). With hard work by local government, the bill has been improved from the way it read when introduced. HB 1849 was approved in Committee and now awaits action by the full House.

Transportation Issues. HB 1887, the omnibus transportation legislation proposed by the Governor, has now passed the House, with only two negative votes. It will now be considered by the Senate, which is expected to agree to it with few if any changes.

HB 1470 (La Rock), which would require NVTa transit project to undergo the same rating process as road projects, has passed the House and will now be considered by the Senate.

HB 2159 (Krupicka), which would have required drivers to stop (not just yield) to pedestrians in marked crosswalks, was defeated in subcommittee.

HB 2170 (Minchew) sought to combine NVTC (Northern Virginia Transportation Commission) with NVTa (Northern Virginia Transportation Authority). It was stricken (killed) by the patron. The current NVTC Chairman promised to have NVTC work to address the issues that led Delegate Minchew (who is a member of both bodies) to introduce the bill.

E-Cigarettes. Legislation that has been introduced to prohibit the sale of e-cigarettes to minors is still alive and making its way through the General Assembly. Other legislation that would have levied state and local taxes on this product was defeated.

Guns. As expected, the General Assembly is enacting few of the dozens of bills that have been introduced that seek to tighten or loosen the regulation of firearms. Those that are still alive include the following:

- HB 1702 would allow firearms dealers to perform a background check before selling a firearm that is not in their inventory. Checks are done under current law only if the firearm is from the dealer's inventory.
- Federal law requires police chief certification for the transfer of certain firearms. HB 2009 would require a court hearing if the chief does not act on such a certification request within 60 days.
- HB 2029 would allow a concealed handgun permit holder to purchase a firearm without a background check.
- SB 1155 requires a law-enforcement agency to attempt to identify and trace the history of any firearm which it recovers.
- SB 1137 would allow concealed handgun permit holders to transport, possess, or carry a loaded shotgun or loaded rifle in any vehicle on any public street, even if local ordinance prohibits that.

Child Day Care. Child day care legislation is likely to be some of the last legislation enacted this Session. Most legislators feel obliged to do something-but there is not yet agreement on what should be done.

HB 1570 (Orrock) is the main vehicle in the House of Delegates for reforms to child day care. As currently drafted, this bill calls for a slight increase in the number of facilities regulated by the State (it would require State regulation of all homes caring for 5 or more children, not counting children of the provider; currently, the State regulates homes caring for 6 or more children). In addition, all facilities receiving federal and state funding would have to be regulated, allegedly due to changes in federal law. Background check requirements are made more stringent for child day care facilities, and individuals who have been convicted of barrier crimes are prohibited from working in them. Finally, the bill requires the commissioner of the revenue or local finance department to provide the State Department of Social Services quarterly with a list of child day care facilities to which a business license was issued.

The Senate has several bills that address child day care issues. SB 1123 (Barker) requires any facility that receives federal and state funds to obtain the “appropriate” license from the Commissioner of the Department of Social Services.

SB 1168 (Hanger) requires children of the care provider to be counted in the number of children in a day care facility (i.e., under current law, a provider who cares for her child and five others is not regulated by the State; under the revised law, she would be, since the total would equal six, not five). It also requires the commissioner of the revenue or local finance department to provide the State semiannually with a list of child day care facilities to which a business license was issued. Finally, it requires every family day home that is not licensed or voluntarily registered with the State to give the State Department of Social Services a “written declaration of intent” to operate the facility, and to state the number of children that will be cared for.

SB 1055 (Hanger) makes background checks more stringent for many child day care providers, and prohibits anyone convicted of barrier crimes from working in these facilities.

As all these bills make their way through the legislature, City staff will work to ensure that they cause no harm to the City's child day care regulatory programs.

Renters. HB 1451, which makes a number of changes in landlord and tenant laws, has now passed the House. Among other things, the bill will eliminate a current 120-day notice requirement for renters who are on month-to-month leases, and whose building is being sold, redeveloped, converted to a condominium, or changed to some other use.

While City staff is concerned about tenants in future redevelopments and conversions, and the City opposes the change to the 120-day notice requirement, we have been unable to find other localities or tenant-support organizations to support the City in its opposition to this provision in the bill.

State Budget. On February 8, the Senate Finance and House Appropriations Committees announced their recommendations for amendments to the biennial budget. Both committees are assuming that the official revenue forecast (due from the Secretary of Finance later this week) will give them \$200 million (or nearly that amount) in additional revenues. A preliminary review of the committees' proposals shows these items of interest to the City:

1. The Senate proposes to eliminate the Local Aid to the State program in FY 16; the House does not make such a proposal. If the Senate proposal is adopted, it would save the city over \$600,000 in FY 16.
2. The House, but not the Senate, has several proposals that are unfriendly toward WMATA and NVTC:
 - a. State revenues that should go to WMATA in FY 2016 (and this does not appear to include the regional 2.1 percent gas tax) would be withheld if it receives a qualified audit, unless the Director of the Department of Rail and Public Transportation determines (in consultation with the chairmen of the Appropriations and Finance committees) that any material deficiencies of the audits have been addressed;
 - b. State revenues that should go to WMATA in FY 2016 (and this also does not appear to include the regional 2.1 percent gas tax) would be withheld unless WMATA has addressed all recommendations cited in the FTA document "Full Scope of Systems Review of the Washington Metropolitan Transit Authority," again in consultation with the chairmen of the Appropriations and Finance committees, as well as the FTA compliance officer.
 - c. It proposes to limit NVTC administrative and personnel costs to a rate not exceeding "the annual growth rate in direct local contributions received from the member jurisdictions."
3. The Senate proposes a 3 percent salary increase for State-supported local employees; the House proposes a 2 percent increase for these employees. It is likely that an increase of 2 to 3 percent will be included in the final budget. The budget will probably include language that will make this contingent on continued increases in State revenues, which are now growing faster than projected last year.
4. Both the House and the Senate call for a 1.5 percent increase in what the State pays for salaries for K-12 teaching and support employees.
5. Both the House and Senate are proposing increases to the one-time payment (\$150 million) proposed by the Governor to improve the funded status of VRS accounts for K-12 employees and retirees. This will likely result in fewer dollars that Alexandria City Public Schools will have to pay into VRS for FY 2016 (and subsequent years).
6. Both the House and Senate have included proposals to create a Joint Subcommittee to consider possible changes to the Virginia Preschool Initiative.
7. The Senate includes \$4.3 million in new funds to provide supportive housing to 300 individuals with mental illness; this appears to correspond with an item in the City's Legislative Package that seeks funding to expand housing options for persons with serious mental illness. The House did not provide any new funding for this.

8. The Governor's budget included funds for all localities to purchase new voting machines prior to the 2016 elections. Both the House and the Senate removed this item.
9. The Senate supported the level of statewide funding proposed by the Governor for Project Discovery; the House cut this funding by \$275,000 (from \$700,000 to \$425,000).

"Half sheets," which give more detailed language on these proposals will be out in several days. These should give us more accurate and comprehensive information about the committees' proposals. Staff will continue to report additional information as it becomes available.

The final budget will not likely be approved until the last days of Session.

ATTACHMENTS:

Attachment 1. Recommended Positions on Bills of Importance to the City, February 6, 2015

Attachment 2. Current Status of City Package Bills, February 6, 2015

Attachment 3. Current Status of Bills on Which the City Has Taken a Position, February 6, 2015

STAFF: Bernard Caton, Legislative Director