



Legislation Text

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City of Alexandria, Virginia

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MEMORANDUM

**DATE:** FEBRUARY 8, 2016

**TO:** THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

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

**DOCKET TITLE:**

Consideration of an Update on the 2016 General Assembly Session.

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**ISSUE:** Update on the 2016 General Assembly Session.

**RECOMMENDATION:** That City Council approve the legislative positions included in Attachment 2 (Recommended Positions on Bills of Importance to the City), as recommended by Council's Legislative Subcommittee.

**DISCUSSION:** The 2016 General Assembly Session began on January 13 and is scheduled to adjourn on March 12. The next significant deadline is "crossover." This day, February 16, is the last day that the House can act on House bills and the Senate can act on Senate bills. Beginning February 17, except for budget and revenue bills, the House can only take up Senate bills, and the Senate can only consider House bills.

**City Package.** The following bills seek to address proposals included in the City's legislative package. Attachment 1 is a more detailed status report on City Package bills.

- About a dozen bills have been introduced to allow either early or no excuse absentee voting. Although the Senate has approved these bills, the House has defeated them. When the Senate bills are considered in the House, they are expected to be defeated,
- A constitutional amendment to provide for the restoration of civil rights for persons who have been convicted of nonviolent felonies, but completed their sentence, probation, and parole has been carried over in the Senate. Several House bills proposing the same amendment have not been heard, but they are expected to be defeated or carried over for consideration by the 2017 Session.

- The House and Senate have both defeated all bills they have considered that would ban, tax, or allow localities to regulate the use of plastic grocery bags.
- The Senate has carried over legislation (SB 105) that would direct a portion of State recordation tax revenues into the Housing Trust Fund; the House has not yet acted on similar legislation (HB 683).
- Although there were many bills introduced this Session to raise the minimum wage, none of them are faring well. It appears that all such bills have been defeated.
- A proposal from the City Package that appears to be on the way to passage calls for the use of population *estimates*, not population *projections*, by NVT. HB 190 has passed the House and is now in the Senate; SB 413 has passed the Senate, and is now before the House. Neither bill has received any negative votes.
- Legislation introduced 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) has been defeated. As Council knows, the City has already implemented such a policy. Although Governor McAuliffe has implemented such a policy at the State level by Executive Order, HB 530 would have codified the practice. Without such a codification, a future governor can rescind McAuliffe’s Executive Order.
- Legislation to limit the interest paid and other charges for payday and car title loans has been defeated in both houses. Bills that would have prohibited the location of these loan offices within a certain distance of a military base or a gambling casino have also been defeated.
- Legislation to limit the retention of police department license plate reader data to 7 days or less has been reintroduced. Last Session, the Governor proposed a 60-day retention period. When the General Assembly insisted on a 7-day retention period, the Governor vetoed the legislation that had been passed.
- Legislation to expand Medicaid under the Affordable Care Act has been defeated.
- Legislation (HB 329 and SB 299) allowing local transit buses to use amber warning lights has been approved unanimously by both the House and the Senate.
- HB 716, which would have significantly increased the weight given to congestion mitigation (at the expense of factors such as safety and economic development) when VDOT evaluates proposed transportation projects in Northern Virginia, was defeated. Although an earlier Update noted that the patron, Delegate LeMunyon, may try to revive the legislation in an altered form, he has not done so.
- Legislation to create a Transit Capital Project Revenue Advisory Board (HB 1359) has been approved unanimously in Subcommittee; the full Committee will likely act on the bill next week. This Board will study

what is needed to address the upcoming shortfall in State funding for transit capital needs, and will recommend additional sources of revenue to address the shortfall.

- Bills have been introduced in both the House and Senate to put a floor on the 2.1 percent local tax imposed on motor vehicle fuels sold in Northern Virginia and Hampton Roads. The House has defeated one of these bills; the Senate Finance Subcommittee on Transportation has approved one.
- No legislation was introduced that would eliminate or alter the City's current authority to regulate child day care providers that are not regulated by the State.
- Workers' Comp legislation (HB 378 and SB 631) continues to make its way through the House and Senate. The legislation will create a process to establish fee schedules for medical provider fees in workers' compensation cases. This should lower the fees paid by the City and other employers in the long run, and it has been agreed to as a compromise by the medical community.

**Legislation Affecting the City's Living Wage Program.** HB 1371 (the patron is Delegate Jackson Miller, from Manassas) would prohibit a locality from requiring an employer within the locality to pay a wage, benefit, etc., that exceeds what is required under federal law. This would make it virtually impossible for Alexandria (as well as Arlington and Charlottesville) to require contractors providing services to the City to pay their employees living wages-something we have done for 15 years. HB 1371 was approved by the Committee on Counties, Cities and Towns Friday on a party line vote (15-7). The Governor vetoed a similar bill (although it would not have affected the City since it did not cover service contracts) last year. Staff has alerted the Governor's Office that this bill may end up before him, and that some localities would be asking him to veto it.

**Proffers.** As noted in the last Update, legislation was introduced at the request of the Virginia Homebuilders to significantly change the ability of any locality to accept proffers from developers when the locality agrees to a rezoning.

The provision of the legislation that would have directly affected the way the City regulates some new residential and mixed use construction would have prohibited a locality from imposing or requiring any limitation on any "matters as building materials, finishes, methods of construction, or design features, on a new residential development or new residential use" including a mixed use development, unless the development is located within an historic district.

Staff worked with the City's delegation to have this provision of the bill amended. In the current version of the legislation, this section only restricts a locality from using rezoning proffers to require certain design, building materials, etc. It no longer would prevent us from using anything else (e.g., an SUP) for this purpose.

In addition, a substitute for the bill was introduced by the patron on the Senate floor Friday. It completely eliminates the section of the bill that would have prohibited localities from restricting building materials, building designs, etc. A similar change has been promised for the House bill.

**Vacant Building Registration.** Prior to the 2013 Session, Alexandria had a very active Vacant Building Registration Program. Under State law until that time, all cities and some towns were allowed to require the annual registration of any building that had been vacant for 12 months or more. Localities were able to charge a \$25 registration fee to help pay for the program's cost.

In 2013, legislation was passed that limited the program to buildings that were vacant *and derelict*, as derelict is defined in State law (the bill also increased the annual registration fee to \$100). As a result of this legislation, the City's vacant building database fell from 28 buildings in 2013 to 3 today. Prior to 2013, Alexandria used this vacant building registration authority to maintain current owner information and emergency contact information. The City also monitored these buildings for compliance with the State Maintenance Code so that they did not become neglected and derelict. This is especially important in a densely-populated City such as ours, where large numbers of homes are townhouses or otherwise non-detached. The impact of one poorly kept property can be great on an adjacent property.

Senator Ebbin has introduced a bill (SB 481) which would allow a locality's registry to include buildings that are vacant *or* derelict. Council's Legislative Subcommittee has recommended that the City support this legislation. (Delegate Herring has proposed legislation-HB1307-that would allow a locality to determine the criteria to use to determine which vacant buildings go on its registry; this legislation has not yet been considered in a subcommittee or committee).

The bill is now facing stiff opposition from the Northern Virginia Realtors Association and the Virginia Realtors Association. They object to the registration of any homes that are not derelict, and they say that they fear that some homes that are for sale might be subject to registration. Senator Ebbin and I have suggested amendments to address their concerns (e.g., have the part of the bill that requires registration of vacant buildings even if they are not derelict apply only to densely populated cities; exempt never sold homes in new subdivisions; exempt homes that are for sale and listed on the MLS realtors service), but the realtors seem unwilling to compromise.

**Compromise Legislation on Handguns.** Staff noted in the last Update that at least 81 bills dealing with handguns or other firearms have been introduced this Session, and that some would tighten restrictions on guns and weapons, while others would loosen them. Staff also expressed the belief that few if any of these bills would be approved by the General Assembly, signed by the Governor, and become law. While it still appears that most of these bills will die, there is now compromise legislation on several weapons-related issues that is making its way through the General Assembly. This legislation (it consists of several bills), which is being promoted by Democratic Governor McAuliffe and the Republican General Assembly leadership, includes the following components:

- It would prohibit anyone subject to a protective order from possessing a firearm as long as the protective order is in effect. Current law prohibits a person subject to a protective order from purchasing or transporting a firearm, but not from possessing one. Bills to prohibit firearms possession by those subject to protective orders have been introduced frequently in past Sessions (and supported by the City), but have never passed.
- It would require the State Police to attend every firearms show in Virginia so that they can conduct a voluntary background check on any firearms purchaser when requested to do so by the buyer or seller.
- It would restore reciprocity agreements for concealed weapons permits with all states that had such agreements prior to December, 2015, when the Attorney General announced that the State was revoking such agreements with 25 states.

This last portion of the compromise (restoring reciprocity with other states) has received heavy criticism from proponents of more stringent controls on firearms. Nonetheless, it appears that a majority of the General Assembly will approve the compromise.

**Airbnb.** Legislation has been introduced this Session to move regulation and tax collection of Airbnb facilities to the State level. Airbnb is a web-based operation that allows people to list rooms for rent in their homes or apartments for overnight guests.

Under current law, Airbnb lodgings are required to abide by the same land use and taxation laws and ordinances as bed and breakfasts and other businesses. They must comply with the same zoning and other land use ordinances, including restrictions on the number of unrelated persons staying in a household; and they should pay transient occupancy and other local taxes.

The legislation that is now being considered in the House and Senate preempts most local laws and ordinances, and assigns the duty of collecting any local taxes to the State Department of Taxation, the only Virginia government entity that will interact with Airbnb. Localities will not have information on which residences contract with Airbnb to provide lodging, and no way or authority to audit homeowners who provide lodging through Airbnb.

One thing that has made it difficult for local governments to get the General Assembly to amend these bills is the fact that localities do not appear to be regulating, or getting significant (if any) revenues from homeowners who offer rooms to overnight guests through Airbnb.

**Dooring.** Senate Bill 117, informally referred to as the “dooring” bill, requires the “operator” of a parked vehicle to open the vehicle’s door carefully so that the opening of the vehicle door does not cause an accident for a biker, pedestrian, or another passing vehicle. Questions have been raised about the use of the term “operator,” since the State Code defines operator as the person who drives a vehicle on a highway-not the person who was driving but is now getting out of a parked car. Some are also concerned that the bill does not address the problem of a passenger who carelessly opens a vehicle’s door.

Because of these problems, the City has not taken a position on the bill in its current form, although Council is sympathetic with the intent of the bill. Staff is monitoring the bill’s progress, and will advise Council if the bill is amended to address these problems. The bill has passed the Senate (24-16) and has gone to the House.

**State Budget.** While committee and subcommittee meetings on the budget bill (HB 30/SB 30) are being held on a daily basis, there is nothing to report on any changes to the budget that was proposed by Governor McAuliffe on December 17, 2015. Some legislators believe that revenue estimates used by the Governor are overly optimistic, and that proposed spending should be reduced somewhat. Local governments are hopeful that the General Assembly will not reduce funding in areas proposed for increases by the Governor, such as HB 599 (local law enforcement funding), public school funding, and funding for the Virginia Housing Trust Fund.

The House Appropriations and Senate Finance Committees will make their proposed amendments public on February 21. Final agreement on the budget is likely to come in the last week of Session. This will be covered in the next Update for Council, which will be prepared for the February 23 Council meeting.

#### **ATTACHMENTS:**

Attachment 1. Current Status of City Package Bills, February 5, 2016

Attachment 2. Recommended Positions on Bills of Importance to the City, February 5, 2016

Attachment 3. Status Report on Bills on Which the City Has Taken a Position, February 5, 2016

**STAFF:** Bernard Caton, Legislative Director