



Legislation Text

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City of Alexandria, Virginia

MEMORANDUM

DATE: JANUARY 23, 2017

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

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

DOCKET TITLE:

Consideration of an Update on the 2017 General Assembly Session.

ISSUE: Update on the 2017 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 2017 General Assembly Session began on January 11 and is scheduled to adjourn on February 25. The deadline for the introduction of legislation was Friday, January 20. As of that date, 2,355 bills and resolutions had been introduced. Many of them deal with perennial issues, such as absentee voting, restoration of civil rights to felons who have completed their prison time, guns, minimum wage, and domestic violence.

Combined Sewer Overflow Legislation. Alexandria's biggest issue in the 2017 Session has, of course, been CSOs (Combined Sewer Overflows). In 2016, City Council approved a plan to address 3 of the City's four CSO outfalls, and took action to begin planning for the way to deal with the fourth one. A number of downstream residents want the City to begin action on the fourth one (referred to as Outfall 001) immediately. In response, legislators introduced five bills pertaining to Alexandria's CSO outfalls.

The first of these, SB 819, was patroned by Senator Ebbin, whose district includes these outfalls. It actually would have enacted into law the plan agreed to by City Council in November, 2016. SB 819 was defeated by the Senate Committee on Agriculture, Conservation and Natural Resources at its first meeting on the second day of the 2017 Session (January 12).

SB 818 was introduced by Senator Scott Surovell, whose district abuts the Potomac River below Senator Ebbin's district. This bill would have required the Department of Environmental Quality (DEQ) to determine, by July 1, 2018, what actions the City needs to take to bring its CSO outfalls into compliance with Virginia law, the Federal Clean Water Act, and the U.S. Environmental Protection Agency's Presumption Approach for CSOs. The City would then have to take the actions specified by DEQ and bring its CSO outfalls into compliance with the Presumption Approach by July 1, 2027. When Senator Surovell's bill was brought up in the Senate Committee on Agriculture, Conservation and Natural Resources (again, at the January 12 meeting), he asked the Committee not to consider it; instead, he said he would defer to Senator Richard Stuart's SB 898.

Senator Stuart's SB 898, as introduced, would have required the City to take the actions necessary to bring its CSO outfalls into compliance with the Presumption Approach by July 1, 2020, and would have withheld all State funding to the City until the City brought its CSO outfalls into compliance with the Presumption Approach. SB 898 was passed by the Senate Committee on Agriculture, Conservation and Natural Resources (which Senator Stuart chairs) by a 10-3 vote. When it was first debated on the floor on January 17, it was passed by temporarily at the suggestion of a Senator from Lynchburg, another City that has dealt with major CSO corrective actions, so that a more reasonable compromise could be developed. Two days later, Senator Stuart offered a different bill on the Senate floor—one that no longer threatened the loss of State money. It still requires all CSO corrections to be implemented sooner than is technically possible, although it does offer the City additional time (until July 1, 2025). The bill came up for a final vote on the Senate floor on January 23, and passed 39-0. It now goes to the House for its consideration.

There are also two bills in the House; neither has yet been heard in committee or subcommittee.

HB 1423 was offered by Delegate David Albo, whose district includes the Mason Neck portion of Fairfax County. It would require the City to bring its CSO outfalls into compliance with the Presumption Approach by July 1, 2027. The bill has been assigned to the House Agriculture, Chesapeake and Natural Resources Committee, and is likely to be assigned to the Committee's Natural Resources or Chesapeake Subcommittee, and heard Wednesday or Thursday of this week.

HB 2383 was introduced by Delegate Scott Lingamfelter, who represents a portion of Prince William County, but also serves as a Vice Chair of the multi-state Chesapeake Bay Commission. Delegate Lingamfelter's bill, unlike the four described above, would apply to all Virginia CSO localities (Alexandria, Lynchburg, and Richmond). It would require the three CSO localities to "undertake the actions necessary to bring the CSO outfall into compliance with the Presumption Approach" by July 1, 2024. This bill has also been assigned to the House Agriculture, Chesapeake and Natural Resources Committee, and is likewise likely to be assigned to the Committee's Natural Resources or Chesapeake Subcommittee and heard Wednesday or Thursday of this week.

City staff and the City's CSO lobbyist (Alexander Macaulay, who in the past worked with the City on legislative and regulatory issues related to the Potomac River Generating Station [GenOn]) will be working with Delegates Albo and Lingamfelter this week to try and get amendments to their bills that would help the City address its CSO problems in a reasonable timeframe.

City Package. The following is an update on actions taken regarding issues in the City's 2017 Legislative Package. Attachment 1 is a more detailed status report on City Package bills.

- **Funds for Law Libraries**—A bill that would have raised the current assessment of court costs that is used to pay for some of the costs of the City's Law Library was defeated.

- Body Cameras-Legislation directing localities to follow certain policies and procedures with respect to body cameras has been defeated by the House.
- Early & Absentee Voting-The House, following its practice in past Sessions, is defeating all legislation that would allow early voting or expand the ability to vote absentee.
- Photo Identification for Voting-A bill that would repealed the law requiring voters to present an ID when voting has been defeated, as have bills that would have expanded the categories of acceptable voter IDs.
- Sales Tax on Certain Products-Bills to exempt toiletries and feminine hygiene products from the sales tax have been killed.
- Minimum Wage-Bills to raise the minimum wage have been defeated in the Senate; similar House bills have not yet been considered, but are not expected to pass.
- Condominium Conversions-Senator Barker, who is a member of the Virginia Housing Commission, has asked the Commission to consider the possibility of extending the ability to assign purchase rights in the case of a condominium conversion to any tenant (these rights are now given only to the elderly and the disabled).
- Water Rate Increases and the State Corporation Commission-A bill that would prohibit the SCC from granting water supply companies infrastructure surcharges outside a normal rate-making procedure is scheduled to be heard in Committee on January 23.
- Legislation that has been introduced but not acted on includes bills to ease the restoration of rights process for convicted felons who have completed their prison sentences; allow school boards to set the opening day of school; direct a portion of State recordation tax revenues into the Housing Trust Fund; prohibit State agencies from asking on employment applications whether the applicant has ever been charged with or convicted of a crime; create nonpartisan redistricting commissions; place a floor on the local motor fuels tax in Northern Virginia and Hampton Roads; direct the Virginia Conflict of Interest and Ethics Advisory Council to study the procedures for the filing and review of disclosure forms by local government officers and employees; penalize localities that do not fully comply with federal immigration laws; and authorize drivers licenses for undocumented immigrants.

Airbnb. Two bills have been introduced pertaining to Airbnb (or short term rentals). Neither bill has been heard in committee.

The first, SB 1578, would allow localities to adopt ordinances requiring the registration of short-term (less than 30 days) rental properties, and imposing penalties on persons who violate such an ordinance. The bill also allows a locality to charge a fee to pay for the cost of compiling and maintaining its registry. Finally, SB 1578 specifically allows a locality to regulate the short-term rental properties through general land use and zoning authority.

SB 1579 allows localities to regulate (by ordinance) short term rentals. A local ordinance must require the property owner to (1) notify adjacent property owners of his intent to offer short term rentals; (2) request and receive permission from the locality to offer short term rentals; (3) pay all applicable taxes; and (4) maintain a minimum of \$500,000 in commercial premises liability insurance that covers all renters, third parties, and, for purposes of any damage that might be caused by a renter, persons and property immediately adjacent to the residential dwelling unit. If a locality prohibits short term rentals, any property owner advertising or making available such a rental is subject to a \$10,000 fine.

Towing. Bills pertaining to towing by tow truck drivers in Northern Virginia (Planning District 8) have been introduced in the House (HB 1960) and the Senate (SB 1468). These bills would increase the towing fee from \$135 to \$150 (there have already been significant increases in recent years). They would also restrict membership from the general public on a locality's towing board, and require that the chairman of a locality's board be "a representative of a licensed towing and recovery operator." For these reasons, Council's Legislative Subcommittee has recommended that the City oppose the bills.

Wireless Internet Infrastructure. Two major bills regulating (or some would say deregulating) wireless internet have been introduced (SB 1282 and HB 2196).

Although the General Assembly's legislative summary for the bills say that they provide "a uniform procedure for the way in which wireless communications infrastructure is approved by localities and approved and installed in public rights-of-way," they actually would have a significant impact on local governments. They would prohibit localities from charging for the use of public right-of-way by certain internet providers, and limit the use of zoning and other land use controls by localities. Council's Legislative Subcommittee has recommended that the City oppose the bills.

Municipal Broadband Networks. Delegate Kathy Byron has introduced HB 2108, which would essentially prevent a locality from creating its own broadband network, unless the locality is in an area not served by a private broadband provider. Opponents of the bill include localities from Northern Virginia, as well as the Hampton Roads and Roanoke areas. Not surprisingly, proponents of the measure are the companies in the private telecommunications industry.

Council's Legislative Subcommittee has recommended that the City oppose the bill.

State Budget. On December 16, 2016, Governor McAuliffe proposed amendments to the current biennial State budget. As staff noted in an email to Council that day, the Governor's proposals were good for local governments. The Governor did not propose any cuts to HB 599 (local law enforcement) funding, K-12 funding, or any other local revenues that come from the State.

He did ask for additional funds to give a 1.5 percent bonus to State workers and State-supported local employees (e.g., local social service employees, deputy sheriffs, etc.). Many General Assembly members would rather see a salary increase rather than a bonus, so it would not be surprising to see a pay raise rather than a bonus in the budget bill approved by the General Assembly.

The Governor also proposed additional funds for certain mental health programs, some of which may come to Alexandria programs.

The House Appropriations and Senate Finance Committees have until February 5 to decide which of the Governor's budget recommendations to accept and which to reject. In addition, they could make their own proposals for changes that could help or hurt local governments. Final agreement on the budget by the two bodies is not usually reached before the last day or two of Session, and sometimes later.

ATTACHMENTS:

Attachment 1. Current Status of City Package Bills, January 21, 2017

Attachment 2. Recommended Positions on Bills of Importance to the City, January 21, 2017

STAFF: Bernard Caton, Legislative Director