

Capitol Report - February 2, 2019



2019 General Assembly Update

Happy Groundhog Day & welcome to week three at the General Assembly where both parties are [debating](#) tax conformity legislation that will determine the revenue available in the House and Senate budgets. The outcome of the debate will impact the Council's 2019 budget priorities: rural broadband and Agricultural BMPs. House & Senate Ag committees and subcommittees saw busy weeks and Council staff monitored dozens of bills in what is always the busiest week of session. Legislation must pass the chamber it originated in before crossover on February 5th. Afterward, bills can only be considered in the opposite chamber from which it originated. This week we also saw movement on a number of items including I-81 improvement bills in both the House and Senate, more fertilizer and pesticide bills, hemp legislation, and agritourism. Below you will find a selection of bills and their status, our activity, and our positions.

House & Senate Budget Action

House and Senate money committees are still seeking consensus on how exactly Virginia will [conform its tax code](#) to the Federal Tax Cuts and Jobs Act. The House Republican Caucus has introduced two bills, HB 2529 (Hugo) and HB 2355 (Jones, SC) that would return almost all of the increased revenue gained from the federal tax changes to the taxpayers. The Senate version of the tax conformity bill would have returned \$420 million in excess tax revenue from the federal changes as well as make several additional tax changes to return close to \$900 million combined to Virginia taxpayers. That bill was defeated on the Senate floor Friday morning and it is still unclear how the issue will be

resolved. The lack of tax conformity bills passing will make estimating the revenue forecast difficult for money committee staff. This weekend marks Budget Weekend in which the House Appropriations Committee as well as the Senate Finance Committee will release their respective budget amendment bills on Sunday afternoon.

The Council staff has met multiple times with the chairs of the House Appropriations Committee and Senate Finance Committee to express the Council's support for significant increases in Agricultural BMP funding, rural broadband funding and additional resources for Virginia Cooperative Extension. We will continue to closely monitor the budget process and keep you updated here each week on the its status, bills we are tracking for the week, and things we are hearing about our 2019 legislative priority items. Virginia's Comprehensive Budget for this biennium can be found [here](#). Member budget amendments can be found [here](#). Next week's Capitol Report will feature the House and Senate budget bills.

Fertilizer and Pesticides

HB 2580 (Kory) – Prohibited pesticides; chlorpyrifos; penalty. Prohibits the manufacture, distribution, sale, offer for sale, use, or offer for use of any pesticide containing chlorpyrifos, defined in the bill, as an active ingredient. The bill authorizes the Virginia Department of Agriculture and Consumer Services to seize any such pesticide. Violation of the provision is a Class 1 misdemeanor and includes an additional fine of up to \$500,000 if death or serious physical harm to any person is caused by the violation.

Stricken from the record at the request of the patron. A coalition of stakeholders including VAC, Virginia Farm Bureau, Virginia Cattleman's Association, Virginia Poultry Federation and the Virginia Golf Course Superintendents opposed the bill.

HB 1906 (Kory) – Residential automatic pesticide misting systems; prohibition; civil penalties. Prohibits, beginning January 1, 2020, the installation or use of any residential automatic pesticide misting system, defined in the bill as a device that is designed to be installed on the grounds or the exterior of a residential dwelling and to automatically spray a pesticide solution at timed intervals. The bill authorizes the Board of Agriculture and Consumer Services to assess a penalty for each day of violation and to adopt regulations to carry out the provisions of the bill.

Died in Subcommittee

HB 2023 (Murphy) – Lawn care service providers; limit on use of fertilizer; civil penalty. Authorizes a locality to, by ordinance, limit the amount and number of applications of fertilizer a lawn care service provider is permitted to apply in a given area in a 12-month period. A lawn care service provider that violates such ordinance shall be

subject to a civil penalty, not to exceed \$50 for the first violation or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months of the first violation shall not exceed \$200.

Dead following VAC opposition

HB 2495 (Tran) – Fall cankerworm; spraying prohibited during certain months. Prohibits localities from spraying pesticides intended to suppress an infestation of the fall cankerworm during the period between March 1 and August 1.

Died in Subcommittee following VAC testimony in opposition

Alcohol– Farm Wineries, Breweries, Distilleries

SB 1064 (Stanley) – Alcoholic beverage control; privileges of farm winery licensees and limited brewery licensees. Expands the privileges of farm winery licensees by allowing them to sell at retail beer manufactured by limited brewery licensees for on-premises consumption. The bill also expands the privileges of limited brewery licensees by allowing them to sell at retail wine manufactured by farm winery licensees for on-premises consumption.

Died 16–0 in Committee following VAC testimony in opposition

HB 2364 (Knight) – Agritourism; amends definition relating to wedding venues. Agritourism; weddings. Amends the definition of "agritourism activity," for purposes of liability as well as the statutory limit on the imposition of restrictions by local governments, to include service as a wedding venue for not more than 12 weddings per calendar year, each wedding involving not more than 250 guests.

Passed Full Committee

Animal Care

HB 1625 (Orrock) – Animal care; adequate shelter; exposure to heat or cold. Provides that the definition of "adequate shelter" includes the provision of shelter that protects the animal from exposure to heat or cold. Current law requires such shelter to protect the animal from the adverse effects of heat or cold.

Passed the House 88–9

SB 1011 (Stanley) – Animal Cruelty Conviction List established. Requires the Superintendent

of State Police to establish within the Department of State Police by July 1, 2022, an Animal Cruelty Conviction List that is available to the public on the website of the Department of State Police. The list shall include the names of persons convicted on or after July 1, 2019, of a felony violation of the prohibition against cruelty to animals; animal fighting; maiming, killing, or poisoning an animal; or killing or injuring a police animal. The bill requires any person convicted of any such offense to pay a fee of \$50 per conviction to fund the maintenance of the list. The bill requires the Department of State Police to maintain and regularly update the list and to remove a person from the list 15 years after his information is listed if the person has no additional felony conviction of a relevant animal cruelty offense. **Died in committee, 12-3**

Energy

HB 1683 (Ware) – Electric cooperatives; rates. Authorizes any electric cooperative to (i) increase or decrease its rates without State Corporation Commission approval for any of its services, rather than only for distribution services, at any time if such adjustments will not effect a cumulative net increase or decrease in excess of 5 percent in such rates in any three year period; (ii) if it does not hold a membership interest in a utility aggregation cooperative and the facility that is the subject of the petition is either owned by the cooperative or has achieved commercial operation, petition the Commission for approval of one or more rate adjustment clauses for the timely and current recovery from customers of the costs of generation facilities, underground facilities to replace certain existing overhead distribution facilities, or certain pumped hydroelectricity generation and storage facilities; (iii) adjust the total system cap for net energy metering, agricultural net energy metering, and small agricultural generators to up to five percent of the cooperative's highest total coincident system peak within the past five years; and (iv) subject to findings that it will not result in either an intra-class or inter-class change in cost recovery, adopt any rate, rate component, program, tariff, or terms or conditions of service that the Commission has previously approved for any other cooperative.

Referred to House Commerce and Labor, Subcommittee #3

Forestry

HB 2411 (Adams, L.) – Timber sales; theft; accounting; penalty. Provides that a person who buys and removes timber from a landowner's property is guilty of larceny if he fails to pay the landowner by the date specified in their agreement or, if there is no written agreement, within 60 days of removing the timber. The bill provides that a person who is convicted of

larceny of timber shall be ordered to pay three times the value of the timber removed. The bill also provides that, following the passing of the payment deadline, a buyer's failure to pay within 10 days of receiving a demand for payment shall constitute prima facie evidence of the buyer's intent to violate the larceny provision. An exception exists for a purchaser who made payment to a person he believed in good faith to be the rightful owner of the timber. **Passed committee 21-0; VAC supports this legislation and anticipates passage**

SB 1469 (Chafin) – Timber sales; theft; accounting; penalty. Provides that a person who buys and removes timber from a landowner's property is guilty of larceny if he fails to pay the landowner by the date specified in their agreement or, if there is no written agreement, within 60 days of removing the timber. The bill provides that a person who is convicted of larceny of timber shall be ordered to pay three times the value of the timber removed. The bill also provides that, following the passing of the payment deadline, a buyer's failure to pay within 10 days of receiving a demand for payment shall constitute prima facie evidence of the buyer's intent to violate the larceny provision. An exception exists for a purchaser who made payment to a person he believed in good faith to be the rightful owner of the timber.

Reported from Senate Agriculture 12-0 & re-referred to Finance; Passed Senate Finance unanimously; VAC supports this legislation

HB 1802 (Tyler) – Amber warning lights; vehicles hauling forest products. Authorizes vehicles hauling forest products to use amber warning lights approved by the Superintendent of State Police, provided that the lights are mounted or installed so as to be visible from behind the vehicle. **Passed the House 96-0; VAC supports this legislation**

Food Safety and Labeling

HB 2274 – (Webert) Meat; food labeling; misbranding. Provides that a food product shall be deemed misbranded if it purports to be, or is represented as, a meat food product while containing no meat, except to the extent that its label bears the word "imitation" followed by the name of the meat food product being imitated.

Passed by indefinitely 7-0 in subcommittee; VAC testified in support of the bill

Industrial Hemp & Tobacco

HB 2393 (Lopez) Child labor; tobacco farms; civil penalty. Prohibits any person from employing a child under the age of 18 to work in direct contact with tobacco plants or dried tobacco leaves unless (i) the owner of the farm or other location at which such work is conducted is the child's parent, grandparent, or legal guardian or (ii) the child's parent or legal guardian has consented in writing to such employment.

Dead following VAC, Farm Bureau testimony against

SB 1057 (Marsden) Industrial hemp; definition; exclusion from certain marijuana provisions. Includes in the definition of "industrial hemp" any compound, manufacture, salt, derivative, mixture, or preparation of the plant *Cannabis sativa*, its seeds, or its resin that contains a concentration of tetrahydrocannabinol that is no greater than that allowed by federal law. The bill excludes industrial hemp from various provisions related to marijuana, including from Schedule I of the Drug Control Act. **Died in committee, 11-4; VAC testified in opposition**

HB 1839/SB 1692 (Marshall/Ruff) – Conforms Virginia law to the provisions of the federal 2018 Farm Bill by amending the definitions of cannabidiol oil, marijuana, and tetrahydrocannabinol (THC) to exclude industrial hemp that is grown, dealt, or processed in compliance with state or federal law. The bill defines "industrial hemp" as any part of the plant *Cannabis sativa* that has a concentration of THC that is no greater than that allowed by federal law, and it adds the category of "dealer" in industrial hemp to the existing registration categories of grower and processor.

Reported from Senate Agriculture 15-0; House version is scheduled to be heard Monday afternoon in Subcommittee. VAC and Virginia Farm Bureau support this legislation

Hunting

HB 2687 (Morefield) – Special license for hunting elk. Authorizes the Board of Game and Inland Fisheries (the Board) to create a special license for hunting elk. Such license shall be required in addition to general hunting licenses. The bill authorizes the Board to establish guidelines (i) related to selection of applicants for eligibility to purchase a special elk license and (ii) permitting the transfer of special elk licenses to individuals or wildlife conservation organizations whose mission is to ensure the conservation of Virginia's wildlife resources. The bill sets a nonrefundable application fee of \$15 for residents and \$20 for nonresidents and a special elk license fee at no more than \$40 for residents and \$400 for nonresidents. **Re-referred to House Ag, Subcommittee #2, reported with substitute 7-1**

Land Preservation

SB 1260 (Sturtevant) – Creation of conservation areas. Allows a planning commission to designate an area as a conservation area. Current law only allows a redevelopment and housing authority to make such designation.

Re-referred to Senate Local Government Committee; struck by patron

Taxes, Fees and Tax Credits

HB 2680 (Wilt) – Milk Production Tax Credit. Creates an income tax credit beginning in taxable year 2019 for taxpayers who own a dairy farm that sells milk below the producer price that is determined by the State Milk Commission. The credit equals \$1,000 per million pounds of milk sold below the producer price for the first seven million pounds, \$500 per million pounds of milk sold below the producer price for amounts greater than seven million but not greater than 20 million pounds, \$200 per million pounds of milk sold below the producer price for amounts greater than 20 million but not greater than 50 million pounds, and \$100 per million pounds of milk sold below the producer price for amounts greater than 50 million pounds but not greater than 90 million pounds.

Passed by Indefinitely at the request of the patron with a letter from the Chair to VDACS to study options for the dairy industry. VAC testified in support with industry partners the Virginia Dairymen's Association, Virginia Farm Bureau, Virginia Cattleman's Association and Farm Credit of the Virginias

SB 1070 (Ebbin) – Local paper and plastic bag tax. Authorizes localities to impose, by ordinance, a \$0.05 tax on certain disposable paper bags and disposable plastic bags provided to consumers by certain retailers. Revenues from the local tax, less \$0.01 of every \$0.05 collected, which the bill authorizes the retailer to retain, would be submitted to the Tax Commissioner and distributed monthly to the county or city imposing the tax. The bill requires each county or city adopting an ordinance to impose the tax to (i) specify in the ordinance that the tax revenues shall be used for pollution and litter mitigation and (ii) provide a certified copy of the ordinance to the Tax Commissioner at least six months prior to the date the tax is to become effective.

Died in committee 11-5. VAC opposed this bill due to the inclusion of paper products.

Transportation

HB 1802 (Tyler) – Amber warning lights; vehicles hauling forest products. Authorizes vehicles hauling forest products to use amber warning lights approved by the Superintendent of State Police, provided that the lights are mounted or installed so as to be visible from behind the vehicle. **Reported from Committee 16-0. VAC supports this bill.**

HB 2718 (Landes) – Interstate 81; tolling; Interstate 81 Corridor Improvement

Fund. Authorizes the Commonwealth Transportation Board (the Board) to impose tolls on Interstate 81, subject to conditions and limitations set forth in the bill. If the Board implements the tolls, it would also be required to offer annual toll passes for passenger vehicles. Revenues from such tolls would be deposited in the Interstate 81 Corridor Improvement Fund, established by the bill, and be used for capital, operating, and improvement costs along the Interstate 81 corridor. In allocating such revenues, the Board would develop and update, in consultation with an Interstate 81 Committee established by the bill, an Interstate 81 Corridor Improvement Program.

Amended to set up a framework for continued study and discussion of possible funding mechanisms for improvements; substitute bill passed House Transportation Committee unanimously; VAC raised concerns with the introduced bill

SB 1716 (Obenshain) – Interstate 81; tolling; Interstate 81 Corridor Improvement Fund. Authorizes the Commonwealth Transportation Board (the Board) to impose tolls on Interstate 81, subject to conditions and limitations set forth in the bill. If the Board implements the tolls, it would also be required to offer annual toll passes for passenger vehicles. Revenues from such tolls would be deposited in the Interstate 81 Corridor Improvement Fund, established by the bill, and be used for capital, operating, and improvement costs along the Interstate 81 corridor. In allocating such revenues, the Board would develop and update, in consultation with an Interstate 81 Committee established by the bill, an Interstate 81 Corridor Improvement Program.

Referred to Senate Transportation; re-referred to Senate Finance and amended to set up a framework for continued study and discussion of possible funding mechanisms for improvements; Referred out of sub-committee as amended; VAC raised concerns with the introduced bill

Water Quality– Soil and Water, Nutrients, and Stormwater

SB 1599 (Lewis) – Ground water withdrawal; Eastern Shore Groundwater Management Area; incentives for use. Directs the State Water Control Board to adopt regulations providing incentives for the withdrawal of water from the surficial aquifer, rather than the deep aquifer, in the Eastern Shore Groundwater Management Area, as defined in the bill. Such incentives may include extended permit terms of as long as 20 years, an accelerated permit process, or discounted permit fees.

Reported from Senate Agriculture, Conservation and Natural Resources, 12-0

HB 2062 (Carr) – Ground water management; defines human consumption. Ground water management; human consumption. Defines "human consumption" of ground water as drinking, food preparation, dishwashing, bathing, showering, hand washing, teeth

brushing, and maintaining oral hygiene. **Died in Subcommittee; VAC testified in opposition**

HB 2063 (Carr) – Ground water withdrawals; waste.

Ground water withdrawals; waste. Provides that when the State Water Control Board determines that surface water is reasonably available for use in a ground water management area, the use of ground water other than from the surficial aquifer in such management area for a purpose other than human consumption shall be deemed to constitute waste. The bill prohibits the issuance of a ground water withdrawal permit to authorize the withdrawal of water that constitutes waste. The bill contains technical amendments. **Died in Subcommittee; VAC testified in opposition**

HB 2064 (Carr) – Ground water withdrawals; allocation.

Ground water withdrawals; allocation. Requires any person applying for a ground water withdrawal permit in the Eastern Virginia Groundwater Management Area (EVGMA) who proposes to use 50 percent or more of the water to be withdrawn for human consumption to submit documentation of such use to the State Water Control Board (the Board). The bill requires the Board to conduct a technical evaluation to determine whether the proposed withdrawal, when combined with all existing lawful withdrawals, will lower water levels in any confined aquifer. The bill prohibits the Board from issuing a permit for such human consumptive use if the withdrawal would lower levels in any confined aquifer below a point representing 80 percent of the distance between the land surface and the top of the aquifer. For a use that does not qualify as a human consumptive use, the bill prohibits the Board from issuing a permit if the withdrawal would lower such levels below a point representing eight percent of the distance between the land surface and the top of the aquifer. **Died in Subcommittee; VAC testified in opposition**

HB 2761 (Rasoul) Cave and karst protection; penalty. Authorizes the Department of Conservation and Recreation to include karsts and related landscape features, defined in the bill, in various functions related to cave protection, including education of public agencies and private landowners, collection of data, and protection of groundwater flow from pollution. The bill makes pollution of any sinking stream, swallet, or other karst feature a Class 1 misdemeanor.

Bill struck by the patron with a request for DCR to study; VAC opposed as part of an industry coalition of Virginia Farm Bureau, Virginia Cattlemen's Association and the Virginia Poultry Federation

SB 1479 (Deeds) – Karst feature mitigation; authorizes any locality by ordinance to regulate. Authorizes any locality by ordinance to regulate the mitigation of any karst feature, defined in the bill as any sinkhole, swallet, or cave, whether pre-existing or newly formed. Such regulation may provide for (i) a permit to mitigate any karst feature, (ii)

disclosure by a landowner of the location and associated permit documents of any mitigated karst feature upon the sale or transfer of any property or of any legal interest therein, or (iii) the retention of public records related to the location of mitigated karst features.

Reported from Local Government with amendment, 13-0; VAC opposed until amended along with a coalition of industry partners including Virginia Farm Bureau, Virginia Cattlemen's Association and the Virginia Poultry Federation

2019 General Assembly Resources

- [Virginia General Assembly Website](#)
- [Who's My Legislator?](#)
- [Legislative Information System](#)
- [House of Delegates Members](#) (Click on name for contact info)
- [Senate of Virginia Members](#) (Click on name for contact info)
- [Standing General Assembly Committees](#)
- [House Agriculture, Chesapeake and Natural Resources Committee](#)
- [Senate Agriculture, Conservation, and Natural Resources Committee](#)
- [Governor of Virginia](#)
- [Lt. Governor of Virginia](#)
- [Attorney General](#)
- [Code of Virginia](#)
- [Virginia Administrative Code](#) (state regulations)

Council Events & Updates

Council Connections Series – Join Us Across The Commonwealth!



Our *Spring Council Connections* series continues this year with receptions and dinners across the Commonwealth! Join us for a fun evening of food, fellowship and important industry updates from Council staff and special invited guests!

Events in March

- **March 21** – Eastern Shore Council Connections Meeting hosted by the [Eastern Shore Ag Research & Experiment Station](#) (Painter, VA)

CLICK HERE TO
REGISTER NOW

Schedule

- 5:30 pm – Registration and networking; refreshments
- 6:00 pm – Program begins; Comments from special guests and VAC staff



These events coincide with our **2019 Membership Drive**, which runs March 1 – May 1. Please help our organization grow by inviting a prospective member to attend an event with you!

These meetings are **free to attend** and **open to members and non-members**. The more the merrier!

[Visit our Council Connections page](#), which will be updated with future dates and locations!

Upcoming Industry Events

Virginia Cooperative Extension

- Click the links below to view a list of 2019 programs, workshops and events offered through [Virginia Tech](#) and [Virginia State University](#)

Farm Credit Knowledge Center

- February 18 (course begins) – [Online QuickBooks Course](#)
- February 19, 21, 26 – [Graze & Gallop Horse Grazing Series](#)
- March 27 & 28 (various locations) – [Farm Management Institute](#)

Virginia Veterinary Conference

- February 21–23, 2019; Hotel Roanoke & Conference Center; [click here for details](#)

Eastern Shore Council Connections

- March 21– [Eastern Shore AREC \(Painter\)](#); [Register here!](#)

VA–NC 2019 Ag Bio Multi–State Conference

- March 27, 2019; Institute for Advanced Learning & Research (Danville); [click here for more information](#)

Virginia Agritourism Conference

- April 3–4, 2019; Hotel Roanoke & Conference Center; [click here for details](#)