



# Update on Key Finance Issues

Finance Steering Committee

November 10, 2019

# Appeals of Business Real and Personal Property Taxes

- HJ 98 (Byron, 2018) directs the Department of Taxation to study the appeals process for valuation of real and personal property of businesses. The study language includes specific direction to examine proposed changes to the process by which machinery and tools are valued and possible enhancements of the Tax Commissioner's role in appeals of machinery and tools taxes. It also contemplates more involvement by the Tax Commissioner in valuations of other local taxes.
- The Department met with stakeholders (including VACo and VML) over the summer and held a meeting of all interested parties October 18.
- VACo provided written comments to be incorporated into the Department's report, which is due December 1.

# Small Business Commission Study of Real Property Tax Assessment Appeals

- HJ 687 (Keam), as introduced, requested the Office of the Executive Secretary to examine options for a tax court system in Virginia. The resolution was an alternative approach to legislation that was considered in 2018 that would have changed what a taxpayer must prove in appealing an assessment. VACo took no position on the original version of HJ 687, but the resolution was significantly broadened in the Senate.
- The final version of the resolution, as it emerged from a conference committee, directed the Small Business Commission to examine the establishment of a tax court, or alternative ways to streamline the local assessment process.
- The Small Business Commission met on June 18 and October 8. Members were skeptical of the need for a stand-alone tax court and opted not to make recommendations on changes to the appeals process.

# Cigarette Taxes

- The 2019 Appropriations Act extends study language that was included in 2018 directing the Joint Subcommittee to Evaluate Tax Preferences to study options for the modernization of tobacco taxation, to include products that produce vapor or aerosol from heating tobacco or liquid nicotine.
- The Joint Subcommittee is directed to study “possible reforms to the taxation of tobacco products that will provide fairness and equity for all local governments and also ensure stable tax revenues for the Commonwealth.” The new due date for the report is November 1, 2019.
- The Joint Subcommittee met October 7 and heard presentations about the taxation of vaping products, including a presentation on SB 1606 (Ebbin, 2019), which would have imposed a state tax on vaping products (and also allowed those localities currently allowed to tax cigarettes to impose a tax on vaping products, with counties limited to taxing at the state rate).
- Members are planning to hold a follow-up meeting to continue the discussion about vapor products, to include claims about their use as a means of reducing cigarette smoking as well as any action that may be taken at the federal level given the health concerns that have recently arisen about use of vapor products.

# Peer-to-Peer Vehicle Rentals

- A workgroup convened by the Department of Motor Vehicles has been examining aspects of peer-to-peer vehicle rental services, including how these services should be taxed relative to traditional vehicle rentals.
- A stakeholder group met over the summer, but reached no consensus on the tax issue. VACo participated in this effort.
- A proposal under consideration would have reduced the motor vehicle rental tax rate applied to peer-to-peer rentals from 10 percent (the current rate, of which, after the Department of Taxation recoups its administrative costs, 4 percent is used for special funds within the Commonwealth Transportation Fund, 4 percent is returned to the locality in which the vehicle was delivered to the renter, and two percent goes to the state General Fund) to 6 percent (of which 2 percent would be provided for transportation purposes, 2 percent would go to the locality, and 2 percent would go to the General Fund).
- VACo opposed this proposal on the grounds that it provided preferential tax treatment to one vehicle rental option rather than treating comparable services alike.

# Body-Worn Cameras

- The 2018 Appropriations Act directed the Compensation Board to study the effect of body-worn cameras on the workload of Commonwealth's Attorneys' offices. (This budget language was an alternative to a proposed mandate that had been considered earlier in the 2018 session that would have required any locality using body-worn cameras to fund new Assistant Commonwealth's Attorney positions at a rate of one attorney per 50 cameras in use.)
- The workgroup met several times in fall 2018. The workgroup's recommendations, which were incorporated in part into the 2019 Appropriations Act, were (i) that the state must fully fund existing staffing standards; (ii) that Commonwealth's Attorneys and their local governments would negotiate the issue of additional locally funded positions, with a default ratio of 1:75 if an agreement could not be reached; (iii) that the workgroup would be continued in order to gather additional data and develop a longer-term solution to the issue.

# Body-Worn Cameras

- The recommendation for additional study was incorporated into budget language, which also provided for an expanded workgroup and a broader scope. Secretary of Public Safety and Homeland Security Brian Moran chaired the 2019 workgroup, which included representation from the judiciary, Indigent Defense Commission, court-appointed attorneys, law enforcement, Commonwealth's Attorneys, and local governments.
- In addition to the issues surrounding Commonwealth's Attorneys' offices, issues discussed in 2019 included obligations of defense attorneys to review body-worn camera footage; concerns about redaction and records retention; technology needs of the courts; and public expectations surrounding the use of the cameras.
- VACo has been working to develop some potential funding options to address the staffing needs in Commonwealth's Attorneys' offices.

# Body-Worn Cameras

- An additional provision in the 2019 Appropriations Act requires Commonwealth's Attorneys to collect data on footage provided to their offices by law enforcement, as well as time spent redacting footage, and report this data quarterly.
- First quarter data collection was limited. Workgroup members recommended extending the workgroup for another year while a more robust data-collection effort is undertaken. The workgroup also recommended that court-appointed defense attorneys and public defenders begin tracking time spent reviewing footage so that the effect on their offices could be quantified.
- In the meantime, VACo has reiterated interest in continuing to develop funding options to address staffing in Commonwealth's Attorneys' offices.
- The report will also include a reaffirmation of support for full staffing for Commonwealth's Attorneys' offices in accordance with the Compensation Board's existing staffing standards (the 2019 Appropriations Act funded approximately 20 percent of the unfunded positions, the first new positions funded since FY 2008).

*Fairfax County staff note: This was not included in the final report.*



# Standards of Care in Local and Regional Jails

- Legislation enacted in 2019 directs the Board of Corrections to establish minimum standards for health care (including medical, dental, and pharmaceutical care) and behavioral health care services (including mental health care, substance abuse treatment, and discharge planning).
- An enactment clause added at the request of VACo, VML, and other stakeholders directs that a workgroup be convened to consult on the development of the standards and develop cost estimates for the behavioral health standards.
- Proposed behavioral health standards have been submitted to the Board of Corrections.
  - Cost estimates developed by the jails total \$43 million to comply with the proposed standards
  - Budget language in the 2019 Appropriations Act directs the Department of Criminal Justice Services and the State Compensation Board to report on the costs for meeting the new standards, to include potential cost-sharing mechanisms between the state and localities. This report is due June 30, 2020.
- Medical, dental, and pharmaceutical standards have been drafted but not yet finalized for submission to the Board of Corrections.

# Community Services Board Funding

- The 2018 Appropriations Act assumed that Medicaid expansion would allow CSBs to bill Medicaid for services that were being provided to uninsured clients whose care was funded by state General Funds (GF) prior to expansion. Accordingly, the budget assumes reductions of \$11.1 million GF in FY 2019 and \$25 million GF in FY 2020, ideally to be replaced with Medicaid billing.
- During summer and fall of 2018, concern was expressed that CSBs' Medicaid billings would not make up for their GF reductions, particularly in FY 2019, since Medicaid expansion would only be in effect for half of the fiscal year, and CSBs and managed care organizations were still perfecting billing and reimbursement processes.
- Language in the introduced budget allowed DBHDS to provide up to \$7 million to help make CSBs whole whose Medicaid reimbursements fell more than 10 percent short of their GF reductions by the end of FY 2019. VACo worked with VML and the Virginia Association of Community Services Boards on language to allow these payments to be made earlier in the year, and to require reporting to the Secretary of Health and Human Resources and the money committees about how Medicaid reimbursements are stacking up relative to GF reductions so that the FY 2020 reductions can be revisited in the next biennium budget.

# Community Services Board Funding

- DBHDS worked with CSBs to develop a methodology to determine how much GF revenue CSBs had been able to replace with Medicaid reimbursements, and determined that the threshold for backfilling losses had been met.
- DBHDS allocated the \$7 million to CSBs in September, but Acting Commissioner Mira Signer cautioned the Joint Subcommittee on HHR Oversight that this action should not be viewed as setting a precedent.
- Additional data is being collected for the December quarterly report, which should provide a clearer picture of whether CSBs are able to recoup their GF reductions. Efforts have been underway to improve billing processes and interactions with the managed care organizations in hopes of securing more timely payments and easing cash-flow issues for the CSBs.

# Elections

- Two major efforts underway of interest to local governments
  - ▶ Implementation of no-excuse absentee in-person voting
    - ▶ Legislation providing for no-excuse absentee in-person voting takes effect with the November 2020 election. The State Board of Elections is charged with reporting to the Governor and the General Assembly by December 1, 2019, on how it plans to implement the new law.
    - ▶ VACo continues to encourage the Department of Elections to take a flexible approach to implementation, allowing localities options to decide whether and how many satellite voting locations to open.
  - ▶ Development of IT security standards for local systems interacting with the state voter registration system
    - ▶ Legislation directing the State Board to establish standards for local technology that interacts with VERIS, the voter registration system, was passed in 2019. Language was added at VACo's request, working with VML and the Virginia Association of Local Government IT Executives, to establish a workgroup to consult on the standards and develop cost estimates for compliance.
    - ▶ Volunteers from local IT departments met extensively with the Department of Elections throughout the summer to develop proposed standards.

# Elections

- The proposed IT security standards are expected to be adopted by the State Board of Elections in November or December.
- The Department of Elections has asked localities to perform two self-assessments of their election cybersecurity posture as a first step and is planning to assist localities, to the extent the Department's resources allow, with achieving compliance with the standards. The agency requested several information security positions in the upcoming biennium budget.
- VACo will continue to advocate for assistance to localities in meeting these requirements.
- A concurrent session on election issues will include a discussion on the proposed standards (2:45 on Monday, Nov. 11).

# Children's Services Act

- Cost study directed by 2018 General Assembly for private special education day placements was released.
  - Report proposes a methodology that could be used to set rates; however, participation by providers in the data collection phase of the report was limited, so the consultants recommended that if the General Assembly opts to move forward with rate setting, another round of data collection should be undertaken, with participation mandatory for providers.
  - The Office of Children's Services included a request for funding for such data collection in its package of biennial budget requests.
- JLARC's Study Selection Subcommittee approved proceeding with a study of the Children's Services Act in 2020, as well as with the previously-planned study of special education, which includes the process by which private day placements are made. JLARC's full membership is expected to approve this plan at its November meeting.
  - VACo previously sent a letter to JLARC encouraging a focus in the special education study of how school divisions can be supported to serve children with high-level needs within the public school setting, and have offered VACo's assistance to JLARC staff with arranging site visits, etc.