



**Virginia General Assembly
End of Session Report
March 18, 2022**

The 2022 Virginia General Assembly session adjourned on March 12 without the passage of a budget. The General Assembly continued all legislation that was still in conference committee, including the budget, to a special session. It is expected that the Governor will call that special session soon, but no date has been set for that yet. Most legislation was either passed or defeated during the regular session.

On Wednesday April 27, the General Assembly will reconvene to consider any amendments to bills sent by the Governor and any Gubernatorial vetoes. The Governor has until 11:59pm on Monday April 11 to sign, veto, or amend any bills that await his action.

The Chamber's policy priorities remain in a mostly positive position. Here is a summary the Chamber's priority legislation and activity through the end of the regular session.

Group Health Benefit Plans

Senator Mason's [SB 195](#) and Delegate Byron's [HB 884](#) would allow employers to form benefits consortiums for the purpose of obtaining health insurance for their employees, lowering costs for all involved, something the Chamber and the business community have been requesting for years. Both bills have passed the General Assembly and been sent to the Governor's desk. Although past Governors have vetoed similar bills, Governor Youngkin has signaled his intention to sign it this year.

Letting Businesses Protect Themselves from COVID-19

One source of contention throughout this pandemic has been the extent to which businesses should be ordered by the government to mitigate the spread of COVID-19. As government-mandated restrictions have lessened over time, businesses have continued to have the right to decide for themselves how best to address the health and safety of their employees and customers. However, Delegate Walker's [HB 22](#) would have prohibited any locality, private employer, health care entity or provider, or provider of public accommodations from requiring vaccines, masks, testing, or contact tracing. The Chamber opposed this bill because businesses should be able to add restrictions if they feel they need to in order to operate safely, particularly requiring masks or vaccines. The bill did not advance out of subcommittee.

Protecting Bars and Restaurants from Higher Insurance and Litigation Costs

Some other states have what are called “dram shop” laws which can hold businesses liable for damages caused by inebriated patrons after drinking at their establishments. Delegate Runion’s [HB 984](#), Senator Hanger’s [SB 230](#), and Senator Obenshain’s [SB 555](#) would have brought some version of that to Virginia, making bars and restaurants liable for drunk drivers who were sold alcohol by these establishments while visibly intoxicated. These bills were all scaled back to apply only to underage people, which is where they would actually have the least impact; establishments that negligently sell to underage people can already lose their ABC licenses entirely, giving more than enough incentive for them to be as careful as possible.

While these bills were well-intentioned, the Chamber opposed them because with the pandemic still devastating bars and restaurants, the last thing they need is increased insurance and litigation costs that would fail to better protect the public from harm. We certainly oppose drunk driving and underage drinking, but these bills would have done nothing to reduce either, while significantly increasing costs. SB 230 and SB 555 were voted down in the Senate Judiciary Committee while HB 984 failed to advance from a House Courts of Justice subcommittee.

Stopping New Burdens on Business

Senator Surovell’s [SB 251](#) would have diverted money from the Northern Virginia Transportation Authority that would otherwise go to roads and transit, and divert it to bike and pedestrian improvements. After receiving complaints about this loss of funding, Senator Surovell brought forward an amendment that would have allowed localities to raise their Commercial and Industrial tax to double the current rate in order to fund bike and pedestrian improvements. We strongly opposed this amendment, as Arlington already imposes their C&I tax at the maximum allowed by Virginia. Facing strong opposition from the Chamber and from much of the rest of the business community, Senator Surovell eventually withdrew his amendment and filed another one converting his bill to a study on bike and pedestrian funding. This amended version of the bill passed the Senate, but was left in the House Transportation Committee without action, defeating it for the year.

Senator Ebbin’s [SB 655](#) would have required businesses to provide various information to employees upon their separation, including name, tax account number, the right to apply for unemployment, and the reason for separation. As an employment-at-will state, Virginia employers have never been required to provide a reason for the separation of an employee at the time it happens, and requiring them to do so would be a significant change. The Chamber opposed this bill, and Senator Ebbin worked with us to take out the problematic provisions. As amended, this bill simply requires the Virginia Employment Commission to come up with a plan for a pilot project, in which a small number of businesses would provide this information upon separation. It is important to note that this only requires the plan for the pilot project, with the project itself being set up through legislation in a future session. If the bill passes, we will be watching that

process closely, and opposing any effort to make this pilot project compulsory. SB 655 has passed the General Assembly and is awaiting action from the Governor.

Energy and Environment

The Chamber supports promoting new energy technologies and improving energy efficiency without imposing new mandates on business. That is why we supported Delegate O'Quinn's [HB 558](#) and Senator Surovell's [SB 565](#). These bills allow natural gas utilities to invest in biogas infrastructure, enhanced leak detection and repairs, reduce methane emissions, and enhance energy efficiency. Both bills have passed the General Assembly and await action from the Governor.

Delegate Kilgore's [HB 1257](#) would have prohibited public entities, including local governments, from limiting or prohibiting the use of natural gas service and blocked them from denying building permits on that basis. The Chamber supported this bill because of how important natural gas is for our businesses here in Arlington, and it passed the House of Delegates. However, the Senate amended the bill to narrow the scope to only require publicly-owned natural gas utilities to provide three years notice before discontinuing service. These utilities are found in some other parts of the state, but not in Arlington. The bill that emerged from conference committee is very similar to the Senate version, which means that unfortunately, it would not help Arlington if signed in its present form. The bill awaits action from the Governor.

Extending Land Use Approvals Through the COVID-19 Pandemic

When the COVID-19 pandemic first hit back in 2020, the Chamber supported legislation to extend a number of land use approvals for two more years, from July 1, 2020 to July 1, 2022. At the time, most believed that two years would be more than enough to get everyone through the crisis, and that everyone would have resumed normal operations within two years. But with the Omicron variant and its associated disruptions, a great deal of processing in local governments has been delayed. For that reason, the Chamber supported Delegate Marshall's [HB 272](#) and Senator Lewis's [SB 501](#). These bills extend the deadline one year further to July 1, 2023, to help get through the challenges many have faced these past few months. Both bills have passed the General Assembly and await action from the Governor.

Business and Labor Relations

Delegate Clark introduced [HB 1220](#) to repeal Virginia's Right to Work law. The Chamber has maintained a longstanding opposition to repealing Right to Work. After significant questioning and testimony in subcommittee, Delegate Clark asked to strike his own bill from the docket, defeating it for this year. This means that Virginia's Right to Work law survives again.

Bipartisan agreement was found on some issues, though. Both parties noticed that there was a need to clean up some issues that have emerged as a result of laws that were passed by the previous General Assembly. Last year, the General Assembly

passed the Virginia Overtime Wage Act, which attempted to bring the overtime rules from the Federal Labor Standards Act into the Virginia Code, allowing employees to bring claims in state court, not just in federal court. However, in doing so, they changed the law in ways that made employers more vulnerable to overtime wage claims, including changing the formula used to calculate the regular rate of pay, extending the statute of limitations from two to three years for a violation that is not willful, and eliminating the good faith exception when calculating damages. Many who supported this legislation in 2021 believed that it would be consistent with the federal version, and were not aware of these changes. For this reason, a budget amendment was passed last year to temporarily fix this issue. This year, the Chamber supported Senator Barker's [SB 631](#) and Delegate Ware's [HB 1173](#) because they change this law to bring it back to what was believed by most to be its original intention, bringing the federal rules into the Virginia Code, without adding anything new to them. These bills have passed the General Assembly and await action from the Governor.

Another change that was made in 2020 was new legislation making it easier to bring nonpayment of wage claims against contractors whose subcontractors were alleged to owe money to their employees, or against subcontractors whose lower tier subcontractors faced the same. A defense was written into this law allowing general contractors to present a written certification from the subcontractor that, to their knowledge, they and all of their subcontractors had paid all wages due. However, the wording of this defense left subcontractors out of that protection, opening them up to much more liability. For that reason, the Chamber supported Delegate Kilgore's [HB 889](#) and Senator Peake's [SB 538](#), which grant that defense to subcontractors for their lower tier subcontractors, helping protect them from nonpayment of wage claims that they could not have prevented.

Grocery Tax

Governor Youngkin campaigned on a pledge to try to repeal Virginia's sales tax on groceries, setting up a major push by supporters of repeal in this year's session. Delegate McNamara's [HB 90](#) fully exempts food purchased for human consumption and essential personal hygiene products from all state, regional, and local sales taxes. Senator Boysko's [SB 451](#) would exempt these items from the 1% tax that the state collects and the 0.5% tax that goes directly to fund transportation. However, it would not exempt them from the 1% local option tax that goes to localities. Both bills have passed their respective chambers, gone into conference committee, and been carried over to the special session.

Both bills would result in a loss of dedicated revenue for SmartScale, the process by which the state funds transportation projects, of approximately \$135 million per year. However, the Commonwealth Transportation Fund had a budget of over \$8.1 billion last year, and spreads this across the whole state. The Northern Virginia Transportation Authority has its own dedicated revenue to fund projects in our region, and is unaffected by this change. Given the projected surpluses from federal grants and increased revenues from other taxes, the small nature of the cut, and its spread across the whole

commonwealth, we do not expect that the final legislation will hurt funding for transportation projects in Arlington.

Hospitality and Tourism Grants

The Chamber supported Senator Ebbin's [Budget Item 486 #2s](#) and Delegate Davis's [Budget Item 486 #2h](#) which would have directed \$200 million in federal relief funds to a grant program for the hospitality and tourism industry. With Arlington County refusing to grant relief money to our hotels, who have taken such a big hit since the start of the pandemic, and who continue to face ongoing impacts from reduced travel and repeated waves of infections, we knew it was important to push for these funds, which is why we wrote the money committees in both chambers in support, and sent an action alert to our hotels and restaurants asking them to do the same. Unfortunately, neither chamber opted to include these grants in their budgets.