

2022 Virginia Legislative Priorities and Issues

Provided to the
Virginia General Assembly



VAGEMSA

Virginia Association of
Governmental EMS
Administrators



Virginia Fire Service Council



Members of the Virginia General Assembly:

The process of gaining consensus on legislative priorities can be a daunting task that requires significant collaboration and, often times, compromise by all entities/stakeholders involved. Each year, the major fire and EMS stakeholder organizations from across the Commonwealth of Virginia meet to discuss not only their specific legislative needs, but the key issues concerning the organizations as a whole. It is the consensus of the twelve major Virginia fire and EMS stakeholder organizations that legislative items contained in this booklet are our collective priorities for 2022. Our organizations are as follows:

Virginia Fire Chiefs Association, Virginia Professional Firefighters, Virginia State Firefighters Association, Virginia Association of Governmental EMS Administrators, Virginia Association of Volunteer Rescue Squads, Virginia Fire Prevention Association, VA Chapter—International Association of Arson Investigators, Virginia Association of Hazardous Materials Response Specialists, Virginia Ambulance Association, Virginia Regional EMS Councils, Virginia Emergency Management Association and the Virginia Fire Service Council

As the presidents/chairpersons of the above statewide fire and EMS stakeholder organizations, we request that you consider and ultimately approve these major legislative initiatives, which would entail a major impact on fire and EMS in the Commonwealth of Virginia. Further, it is our desire to inform you of other critical issues that are affecting the fire and EMS community and that may require future legislation.

We thank you for your review and consideration of these important matters.

Sincerely,
(Fire and EMS Stakeholders)

Keith Johnson
President, Virginia Fire Chiefs Association

Robby Bragg
President, Virginia Professional Firefighters

Pete Kirby
President, Virginia State Firefighters Association

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Expanding Cancer Coverage for Firefighters

One of the biggest threats to Virginia's firefighters is the prolonged occupational exposure to carcinogenic substances. According to Johns Hopkins University, existing personal protective gear can mitigate, but not fully prevent, a firefighter's exposure to carcinogens.¹ As a result, firefighters are more likely to contract cancer than the general population and have a 14 percent increased risk of dying from the disease.² As a result, Virginia's Fire and EMS stakeholders ***unanimously support expanding occupational cancer coverage for firefighters and emergency medical services personnel and increasing funding for cancer prevention.***

Background

In 1994, the Virginia Workers' Compensation Act was expanded to provide presumption coverage to firefighters whose death or disability resulted from five types of occupational cancers, including leukemia, pancreatic, prostate, rectal and throat cancers. Later, ovarian and breast cancers were added by the 2000 General Assembly as more women joined the fire service. However, this presumption was only provided to those firefighters with 12 years of continuous service and a documented exposure to a known carcinogenic substance.

In December 2019, the Joint Legislative Audit and Review Commission (JLARC) released its comprehensive report on [Virginia's Workers Compensation System and Disease Presumptions](#). Among other things, the JLARC report articulated that it was unreasonable to require firefighters to document exposure to carcinogens that cause their particular cancer and counter to the purpose of Virginia's presumption statute.³ As a result of the JLARC report, legislation was passed during the 2020 General Assembly Session to add brain, colon and testicular cancers to the presumption statute, as well as reduce the years of service requirement to five years. However, the biggest legislative victory for Virginia's Fire and EMS stakeholders in 2020 was the removal of the requirement to prove exposure to a carcinogenic substance directly linked to a cancer diagnosis. Doing so had proved to be difficult with existing technology and largely cost prohibitive.⁴

The *Code of Virginia* (§ [65.2-406](#)) requires an occupational cancer diagnosis be within five years of the "last exposure in employment." However, this is counter to recent legislative changes that removed the requirement for firefighters to prove exposure to carcinogenic substances. Additionally, the formation of a tumor is a complex process and latency varies by the type of cancer. Of those occupational cancers included in Virginia's presumption statute, John Hopkins

¹ Joint Legislative Audit and Review Commission. Virginia's Workers' Compensation System and Disease Presumptions (December 2019), Retrieved <http://jlarc.virginia.gov/pdfs/reports/Rpt530.pdf>.

² National Institute for Occupational Safety and Health. Study of Cancer among U.S. Fire Fighters. <https://www.cdc.gov/niosh/firefighters/health.html>

³ Joint Legislative Audit and Review Commission. Virginia's Workers' Compensation System and Disease Presumptions (December 2019), Retrieved <http://jlarc.virginia.gov/pdfs/reports/Rpt530.pdf>.

⁴ Ibid.

University's research outlines that the cancer latency period is a minimum of four years and the average ranges from 8 to 52 years.⁵

As a result, Virginia's occupational cancer statute fails to protect many of our firefighters because their cancer is diagnosed more than 5 years after their retirement. These individuals served their communities for over 20 years and endured extensive exposure to toxic chemicals. Virginia's Fire and EMS stakeholders ***unanimously support extending occupational cancer coverage for firefighters and emergency medical services personnel after retirement from the Fire Service.*** Our firefighters and their families have earned these protections and we need to honor their service by ensuring they get them appropriately whenever they receive that diagnosis.

⁵ Johns Hopkins Bloomberg School of Public Health. JLARC Review of Virginia's Disease Presumptions Epidemiology Consultant Technical Report (December 2019). Retrieved from http://jlarc.virginia.gov/pdfs/other/JHU_Consultant_Report.pdf

Virginia Retirement System; Enhanced Retirement Benefits for 911 Dispatchers

Emergency-911 (E-911) dispatchers are known as the "first" first responders, because without them, no first responder would ever be dispatched on an incident. Dispatchers experience many of the same psychological trauma and stressors as law enforcement, firefighters, and emergency medical personnel. To make matters worse, dispatchers rarely get closure as they are not focused on one incident, so they do not see the final resolution or closure to a 911 call.

Virginia's fire and EMS stakeholders unanimously support adding 911 dispatchers to the list of local employees eligible to receive enhanced retirement benefits for hazardous duty service. These benefits would be similar to those provided to state police officers when the locality elects to offer enhanced retirement benefits. Under current law, localities may provide such benefits to first responders, including firefighters and emergency medical technicians, and certain other hazardous duty positions, but not 911 dispatchers. Why should we treat them any differently than other first responders?

Additionally, recruitment and retention of E-911 dispatchers is a nationwide problem, due to the nature of the job. Challenges include the trauma stressors, difficult hours worked, and lower salaries compared to other first responders. Recently, the Commonwealth of Virginia released the [Emergency-911 Border Response Workgroup Report](#) pursuant to Item 391 of the State Budget. The workgroup assessed the deficiencies related to the timely routing of E-911 calls to the appropriate public-safety answering point (PSAP) across either state or county borders. The workgroup also collected information and assessed problems with the current system; reviewed solutions already implemented by localities and citizen groups; identified best practices; and provided recommendations to the General Assembly on technology, training, and compensation. The workgroup clearly identified increased benefits and compensations for dispatchers as one of their key recommendations.

Background: Legislation would give localities the authority to opt-in to provide enhanced coverage, equivalent to those provided under the State Police Officers' Retirement System (SPORS). Benefits include a supplement payable from retirement until the retiree's normal Social Security retirement age, as well as a higher retirement multiplier. The cost of the benefits would be borne by the locality that chooses to opt-in. Similar legislation was put forward in 2020 ([House Bill 480](#)) and in 2018 ([House Bill 1326](#)). **We strongly support legislation to add E-911 dispatchers as eligible employees for enhanced retirement benefits in the 2022 General Assembly session.**

Improve Line of Duty Act Program

Established in 1972, the Virginia Line of Duty Act (LODA) provides death and disability benefits to families of public safety officials killed or permanently disabled as a result of service to the Commonwealth. The Virginia Retirement System (VRS) makes all eligibility determinations for LODA benefits, and the Department of Human Resource Management administers the LODA Health Benefits Plans. The cost of providing these LODA benefits continues to increase due to a growth in the number of beneficiaries and the rising cost of healthcare. These increasing costs are not sustainable for local and state governments and jeopardize the long-term financial stability of the LODA program.

Virginia's Fire and EMS stakeholders ***unanimously support the establishment of a dedicated funding source to secure the long-term financial stability of the LODA program.*** Without sustainable revenue, the Commonwealth is failing our public safety community. We must ensure that those selflessly served others receive the benefits they deserve now and in the future.

Background

When the LODA program began in 1972, it provided only a one-time lump-sum death benefit to the families of those killed directly in service to the Commonwealth. In 1976, public safety officers who died of certain occupational diseases became eligible for a death benefit, as well. However, the most significant change to the program occurred in 2000 when public safety officers with permanent disabilities became eligible for lifetime health insurance coverage. Beneficiaries are considered to be disabled under the LODA statute if they submit medical evidence that they are unable to perform their prior occupation, and this disability is likely to be permanent. Health insurance benefits were also extended to the families of deceased public safety officials beginning July 1, 2000. The death benefit increased over the years and is now \$100,000 for deaths occurring as a direct result of duties and \$25,000 for deaths by a presumptive cause.

The financial burden for the LODA program shifted to local governments when the Commonwealth was experiencing a significant budget shortfall in 2010. Beginning in FY2011, the monies for LODA benefits were paid for by individual employers and no longer through the state's General Fund. Employers covered those costs either through their participation in the Line of Duty Death and Health Benefits Trust Fund or opted to self-fund their LODA expenditures. Regardless of the way its administered, localities must pay, at minimum, healthcare premium costs for eligible employees, death benefits to survivors, health insurance expenses, investigation fees and administrative fees. Those costs add up quickly and can set up an adversarial relationship between the employer and the employee. During FY2020, VRS collected \$13.6 million in contributions for Line of Duty Death and Health Benefits Trust Fund and paid out \$12.2 million in benefits for participating employers.¹

The General Assembly has made significant reforms to the LODA program in recent years. However, they have failed to establish a dedicated stream of revenue for its benefits. Our fire-fighters and their families have earned these protections and we need to honor their service by ensuring their benefits are funded appropriately.

¹ Virginia Retirement System. 2020 VRS Comprehensive Annual Financial Report (December 2020), Retrieved from <https://www.varetire.org/pdf/publications/2020-annual-report.pdf>

Dedicated Funding Source from the Commonwealth of Virginia to Enhance Local Emergency Preparedness, Response, and Recovery Capacity with a Full-Time Emergency Manager in all Political Subdivisions of the Commonwealth

In accordance with Va. Code Ann. § 44-146.19 (2021), each political subdivision of the Commonwealth is required to maintain an agency of emergency management, appoint a coordinator of emergency management, and prepare and keep current a local or interjurisdictional emergency operations plan that must be revised, at minimum, once every four years. While all localities comply with the minimum requirements of this section, many localities lack the resources to dedicate a full-time staff member to these responsibilities, which are typically assigned as a part-time duty of fire rescue, law enforcement, or other local government personnel.

According to the Commonwealth of Virginia Emergency Operations Plan (COVEOP)¹, emergency incidents are typically managed at the lowest possible level, and direction of emergency operations will be exercised by the affected local government closest to the incident. The COVEOP also notes that a planned and coordinated response on the part of state and local officials can save lives, protect property, and more quickly restore essential services.

Professional Emergency Managers play a central role in coordinating preparedness, response, and recovery activities by:

- Building relationships with community organizations.
- Providing training and education to residents, businesses, and first responders.
- Exercising emergency operations plans and maintaining emergency facilities.

During an emergency event, Emergency Managers lead multi-agency coordination by:

- Notifying the community of protective actions and keeping stakeholders informed.
- Supporting first responders as they manage and stabilize the incident in the field.
- Maintaining situational awareness of resource availability, unmet needs, developing hazards, and changing conditions.

The Virginia Fire and EMS Stakeholders support the establishment of a dedicated Commonwealth funding source that will enable every locality to hire a full-time professional Emergency Manager, whose duties are substantially dedicated to planning for, responding to, recovering from, and mitigating against the threat or impact of all natural, technological, and human-caused hazards.

This initiative will increase the Commonwealth's resilience by ensuring that every locality can support and operationalize a local planning, training, and exercise cycle, while also ensuring that emergency plans account for the diverse needs of the whole community. The presence of full-time Emergency Managers in each locality will also increase the amount of mutual aid staff support that is available from neighboring localities when a community experiences a localized no-notice, high-impact event, such as a tornado or flash flood, building collapse, or act of violence.

¹ <https://www.vaemergency.gov/wp-content/uploads/2021/07/2021-COVEOP.pdf>

Other Informative Issues

Defelonization of Assaulting a Law Enforcement Officer

Entry into burning buildings and roadside rescue operations have long placed firefighters at risk. The profession comes with many known dangers, including collapsing floors, motor vehicle crashes, and overexposure to flames and smoke. However, in recent years, a disturbing trend has been playing out across our country. Virginia's fire and emergency medical service (EMS) personnel are now enduring historically high levels of violence at the hands of the people they are trying to help. From physical assaults to verbal abuse, violence is a significant occupational hazard for firefighter and EMS practitioners. Responders are frequently bit, spat at, kicked, punched, and cursed at.¹ Sadly, these first responders are even shot. In June 2021, a Portsmouth firefighter was shot while responding to a call about wires down that quickly turned violent. This firefighter continues to recover from his injuries, both physically and emotionally.

Our firefighters and EMS personnel should be protected from all occupational hazards, including those acts of violence. Recognizing that it is unacceptable to assault a first responder, the *Code of Virginia* outlines it is a Class 6 felony to assault a firefighter or EMS personnel engaged in the performance of public duties (§ 18.2-57). In recent years, legislation has been considered by the General Assembly to reduce the penalty for assaulting a law enforcement officer from a Class 6 felony to a Class 1 misdemeanor. Such reductions jeopardize the lives of the brave men and women that serve our communities. Our fire marshals are included in the definition of law enforcement officer and would negatively be impacted by efforts to defelonize assault and battery. Therefore, **Virginia's Fire and EMS Stakeholders oppose reducing the penalty for assaulting a law enforcement officer, as well as any modifications to the assault definition.**

Marcus Alert Funding and Implementation

The Marcus-David Peters Act was signed into law in November of 2020, triggering a transformational approach to responding to emergency incidents. Oversight and funding at the state level flows through the Department of Criminal Justice Services (DCJS) and Department of Behavioral Health and Developmental Services (DBHDS), while fire and EMS operations are overseen by different state agencies. At a minimum, both fire and EMS stakeholders need to be better integrated into the development and implementation of the Marcus Alert system. In many instances, firefighters are also trained as EMTs, and will be included on the mobile crisis teams responding alongside law enforcement and/or behavioral health professionals. For lower level threats, firefighters might respond without law enforcement altogether. Additionally, in many localities, E-911 operations, also called public safety access points (PSAPs), fall within the jurisdiction of the fire chief. For the transformational Marcus Alert System to be implemented effectively and with adequate coverage, **sufficient funding is needed from the Commonwealth for the fire service departments**, not only to law enforcement and Community Services Boards, to support PSAP operations, the creation of a voluntary database that is required to be implemented by law, personnel training, and staffing costs.

¹ Roman, J. (January 2019). The Toll of Violence. *National Fire Protection Association Journal*. Retrieved from <https://www.nfpa.org/News-and-Research/Publications-and-media/NFPA-Journal/2019/January-February-2019>

Sustainable Fire and EMS Funding

Unlike other first responders, such as police and sheriffs, who are supported by the Commonwealth through 599 funds and compensation board requirements respectively, there is no direct funding from the Commonwealth to support the services of fire and EMS professionals. Instead, localities are responsible for funding fire and EMS needs through their respective tax bases with only two small pass-through streams from the Commonwealth. The Virginia Fire Programs Fund is a 1% assessment on fire insurance in the Commonwealth intended to supplement fire training, firefighting equipment, and firefighter protective clothing. There is also a \$6.25 surcharge on each vehicle registered in Virginia, which is used to provide grants to EMS agencies through the Rescue Squad Assistance Fund (RSAF) and a small direct return to localities based upon the number of registered vehicles in a locality.

Unfortunately, the cost of delivering services is increasing, due to rising costs of equipment, declining recruitment and retention of employees, and additional life safety requirements across the Commonwealth. Rural communities are especially struggling to keep fuel in the units, pay for insurance, and other essential needs at their stations. Current funding is not sufficient to keep pace with additional responsibilities given to Fire and EMS departments, such as co-response teams and retrofitting firehouses for COVID-19 protections. In an effort to meet the rising demand for services, while balancing an increasing cost for delivery, and a nationwide decline in fire and EMS personnel, **we respectfully request the Commonwealth to look at sustainable models for investing in fire and EMS departments.**

Agritourism and Public Safety

Virginia's fire and EMS stakeholders recognize and value the important role that rural businesses play in our economy. To that end, we support legislation that both promotes agritourism, as well as associated public safety. In particular, we support legislation that requires minimum life safety standards in agritourism buildings or structures used for assembly of 50 or more persons. We also support educating owners of such structures on operational components, such as those found in the Statewide Fire Prevention Code. Minimum safety features that would assist in getting patrons out of buildings or structures quickly include:

- Local non-monitored fire alarm systems;
- Two remote exits, each equipped with exit lights and panic hardware on hinged exit doors that swing out;
- Emergency lighting; and
- Portable fire extinguishers.

Barricade Devices in Schools and Educational Occupancies

Building and fire codes save lives. We do not want to exchange one potential hazard for another. Currently, national organizations are considering options for inclusion into their building and fire codes that would negatively impact the safe and rapid egress and/or evacuation of our school buildings. It is premature for Virginia to contemplate proposals to counter our fire and life safety codes before these organizations have reached consensus. Virginia codes should not be amended for the minority of structures that may not have the ability to easily exchange locking hardware and remain code compliant. It is for these select, lesser number of structures that a code modification provided by the Fire Official and the Building Official would apply to address a problem.

In-Building Radio Communications Systems

The Fire and EMS Stakeholders support legislation that defines effective emergency radio communication as a requirement for occupancy approval of all new structures. In much the same way that in-building standpipe hose systems are required in tall buildings to provide water for firefighters, in-building emergency radio communication enhancement must also be provided, if found to be necessary to maintain the existing level of emergency radio communication coverage due to the size, materials, or design of a new building. The International Building and Fire Codes have required this in-building evaluation and basic level of emergency radio effectiveness for decades while the Virginia Construction Code has largely ignored this safety issue and growing problem for Commonwealth communities and their first responders. In fact, current building code regulations make it clear that each local jurisdiction, not the private building owner constructing the structure, must bear the burden and cost of providing an in-building emergency radio enhancement system when a new building is constructed and emergency radio communication is not possible or adequate. This unreasonable and nearly instant burden to localities means that in most cases, the equipment is not provided at occupancy and these structures go years or longer without adequate emergency radio communication, leaving our communities and first responders without the basic tools needed during an emergency. Without a doubt, clear and effective emergency radio communication within all new buildings is an expectation of all Virginians and something that our first responders should be able to count on every time they risk their lives serving our communities.

Fireworks

The Fire and EMS Stakeholders oppose any action by the General Assembly that would expand the sale, possession and use of consumer fireworks, without the provisions to assure compliance with related National Fire Protection Association Standard, which contain minimal fire and life safety provisions for all consumer fireworks. Injuries and deaths from fireworks occur annually. According to the U.S. Consumer Product Safety Commission, there were 9,100 fireworks-related injuries treated at U.S. hospitals in 2018—36% occurred in children under 15 years old.¹ Approximately 5,600 of these occurred from June 22 to July 22, 2018, and nearly half were to individuals younger than 20 years of age. That same report indicated that there were five reported deaths from non-occupational fireworks use. After Iowa allowed the sale of fireworks in 2017, firework injury patients under 18 years of age increased 26%. Injuries after Iowa's legalization were more severe, with 57% requiring surgery compared to the 20% prior to legalization.²

Use of COVID-19 Funds Received by the Commonwealth of Virginia to support Fire and EMS

A portion of the COVID-19 Federal funding that has been received by the Commonwealth of Virginia should be used to support a variety of critical fire and emergency medical services (EMS) needs. Fire and EMS organizations have been heavily relied upon and on the front lines

¹ U.S. Consumer Product Safety Commission, 2018 Fireworks Annual Report.
https://www.cpsc.gov/s3fs-public/Fireworks_Report_2018.pdf.

² University of Iowa, Legal Consumer Fireworks in Iowa, October 2017 Report³ National Fire Protection Association, Fireworks Safety, June 2016 Fact Sheet.

responding to the COVID pandemic, thus creating additional stress on our personnel and response systems. However, the Commonwealth of Virginia has provided minimal financial support to these agencies from the COVID funds that have been received from the Federal government. It is requested that a portion of the COVID funds be designated for fire and EMS agencies to repair, maintain and/or replace equipment critical for sustained responses. It would be suggested that a process for distribution of funds be developed between the Virginia Fire Services Board and the Virginia EMS Governor's Advisory Board for distribution over next two fiscal years.