

2009 Legislative Program

Virginia Association of Counties

Adopted by the VACo Membership – November 11, 2008

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OVERARCHING PRIORITY

State and Local Fiscal Sustainability

VACo is committed to protecting state and local fiscal stability, which will enable the Commonwealth to provide core public services that are critical to the long-term economic vitality of Virginia. Fiscal stability also ensures the Commonwealth and its local governments can continue to provide cost effective, quality services with equitable and sufficient tax structures. However, difficult financial times require government at all levels to evaluate its service delivery to determine the continued importance and viability of the programs created to meet critical needs. The counties in Virginia stand ready to partner with the Commonwealth to make the tough decisions required. State and local leaders must continue to thoroughly evaluate difficult decisions and work together to maintain a structural balance between revenues and expenditures, which promotes the long-term viability of our Commonwealth.

VACo is concerned with protecting the reliability and sustainability of the Commonwealth's general fund, which is critical to state funding of its partnership with local government. The general fund supports most core government functions—public education (K-12 and higher education), health and human resources, public safety, natural resources and environmental services. If one level of government establishes a priority, it is then incumbent upon that level of government to adequately fund the services necessary to meet that priority. The current economic environment threatens the sustainability of these critical services if the Commonwealth reduces its contribution to our financial partnership.

The use of the state's Revenue Stabilization Fund in 2009 will help to buffer the Commonwealth from cuts that will harm the important results that have been achieved. To that end, and to allow Virginia's economy the opportunity to grow back to support these critical advances, the state should budget a withdrawal from the state's Revenue Stabilization Fund ("Rainy Day Fund") for consecutive years (one for FY 2009 and an additional withdraw for FY 2010). Without the General Assembly and governor authorizing using a portion of the Rainy Day Fund in FY 2009 and 2010, it is apparent that delivery of the core government services will be decreased to the detriment of all Virginians.

VACo also calls upon the Commonwealth to strengthen the stability of the Commonwealth's general fund by initiating state tax reform. Significant tax reform will help reduce pressure on local government leaders who continually must consider raising real estate tax rates to fund K-12 public education, public safety, the comprehensive services act, mental health and mental retardation, and other critical local services. Tax reform should include a restructuring of the state income and sales and use taxes with the intent to stabilize and increase revenues to meet current and foreseeable core service demands. Reform should also include a revisiting of specific state tax reductions the Commonwealth made during good economic times that may no longer be affordable. A critical evaluation of the user fee structure that funds transportation should be made to allow the Commonwealth to address deteriorating transportation systems throughout the Virginia. Although a core government service, the Commonwealth historically has funded transportation with dedicated non-general funds in order to reserve the general fund for the additional core services.

To meet its mandated level of service delivery local governments require sufficient and sustainable revenue streams. VACo suggests that the Commonwealth grant counties and cities the option, by action of the local governing body without a referendum, to adopt a 0.5 percent sales and use tax to offset state budget reductions to localities. If appropriate to a particular jurisdiction, the new dollars will help local leaders to fund adequately K-12 public education and the other critical government services; while lessening continued pressure on local property taxes, including real, personal and business. VACo also continues to support equal taxing authority for cities and counties.

VACo's PRIORITIES

Aid to Localities

VACo requests the Commonwealth to use the most current population statistics available, such as those developed by the Weldon Cooper Center for Public Service, for the purposes of determining state aid to those localities that have experienced growth since the last census. Those localities that have remained stable or have lost population should be held harmless and funded based on the last U.S. Census results.

Annexation Moratorium

VACo supports full funding of the Commonwealth's HB 599 commitments. VACo also supports the continuation of the current moratorium on city annexations regardless of whether those commitments have been met. The moratorium has promoted more intergovernmental cooperation between cities and counties; has allowed counties to plan for future growth and economic development within their borders; and has enabled counties to protect their tax base in order to provide needed services to citizens.

Deployment of Broadband Internet Services

VACo urges the Commonwealth to assist communities throughout Virginia in providing connectivity or universal access to broadband Internet services. Assistance should include a combination of economic incentives as well as statewide budgetary and statutory policies. Universal access throughout the state will enhance economic growth. Broadband refers to the high-speed transmission of electronic information usually in connection with the Internet.

Education Funding

VACo supports full state funding for public education (including the SOQ, targeted incentive programs, capital and maintenance support, and teacher salaries). Full state funding should be achieved without reduction to other parts of the federal and state public education budgets or to the other core services. As state general funding diminishes local autonomy should be increased and state education mandates reduced.

Health and Human Resources Funding

VACo supports state policies and funding to ensure the Commonwealth's at-risk families have access to high quality and appropriate services. The Commonwealth should fully fund localities for state mandated human services and provide the necessary program flexibility to enable localities to provide comprehensive and case-tailored services.

Land Use/Growth Management Tools

Authority to plan and regulate land use should remain with local governing bodies and VACo opposes any legislation to weaken that authority. Furthermore, the General Assembly should grant localities the tools necessary to adequately meet citizens' increasing transportation, education, public safety and other vital public infrastructure needs that are driven by new development. Such additional tools may include broad impact fee authority for all counties, adequate public facilities provisions in subdivision ordinances, state funds for the purchase of development rights, and real estate transfer charges.

Stormwater

VACo urges the Soil and Water Conservation Board, prior to approving the newly proposed Virginia Stormwater Management Program (VSMP) permit regulations, to analyze the potential fiscal impacts of these rules on local governments. Any expenses imposed by these new regulations must be born 100 percent by the Commonwealth. The new VSMP regulations expected for final approval in mid-2009 must have achievable objectives tested in "real world" situations, streamlined to minimize administrative reviews by state agencies, and provide localities with flexibility to make appropriate decisions about drainage and land use. Localities enforcing state regulations require full cost recovery through the fee schedule provided by the VSMP regulations.

Transportation Funding

VACo continues to maintain that an efficient transportation network is crucial to sustainable economic growth, a cleaner environment, and enhanced public safety and quality of life. VACo therefore urges the Governor of Virginia and the Virginia General Assembly to enact a significant transportation funding package to include dedicated, new, significant and recurring annual revenues to address the Commonwealth's documented transportation infrastructure needs. New revenues should include but not be limited to gas tax revenues. Dedicated, new, significant and recurring annual revenues are required to eliminate the road maintenance shortfall; increase funding directed to interstate and primary highways, urban and secondary roads, and transit projects; guard against the

transfer of general funds to transportation; and address the unique transportation needs of specific regions of the Commonwealth including Hampton Roads and Northern Virginia.

Transferring state general funds to transportation neither adequately supports documented and recurring transportation infrastructure investment needs, nor serves to protect the Commonwealth's additional core services including public education, health care, mental health and retardation, and public safety.

Transportation Revenue Sharing

VACo supports restoration of the Revenue Sharing program to the structure that existed prior to the 2006 session with robust funding. Maintenance projects should be eligible for matching funds under the revenue sharing program.

Unfunded Mandates

VACo opposes unfunded mandates by the Commonwealth. When funding for a mandated program is altered, the mandate should be suspended until full funding is restored. When legislation with a cost to localities is passed by the General Assembly, the cost should be borne by the state and the legislation should contain a sunset clause providing that the mandate is not binding on localities until funding by the Commonwealth is provided. Furthermore, VACo opposes the shifting of fiscal responsibility from the state to localities for existing programs. Any unfunded mandate or shifting of responsibility should be accompanied by a full fiscal and program analysis to determine the relative costs to the state and to the locality and to assure the state is meeting its full funding responsibility before taking effect.

Water Quality Improvement Funding

VACo supports additional state funding and technical assistance to help localities improve water quality in a manner consistent with tributary strategies, implementation of Total Maximum Daily Loading goals, and water quality standards established by the State Water Control Board. VACo strongly opposes the imposition of a state fee, tax or surcharge on water, sewer, solid waste or any other service provided by a local government or authority.

VACo's POSITIONS

Administration of Government

Constitutional Officers Staffing and Funding

VACo urges the Commonwealth to meet its full funding obligation for constitutional officers and their employees. VACo supports a study by JLARC of the staffing and funding of constitutional officers. The study should examine alternative funding methods and local involvement in staffing and funding changes. The study should also include issues surrounding local and regional jails such as compensation and benefits, construction, prisoner per diem, and operational costs. A fiscal and program analysis should determine whether state funding responsibilities are being fulfilled.

Dillon Rule

VACo supports a relaxation of the Dillon Rule by giving counties greater local autonomy, particularly concerning land use regulation and local revenue measures.

Elected Officials

VACo seeks to work with the General Assembly in a bipartisan effort to address the issues that arise when an elected official faces criminal prosecution. This includes a process for appointing a temporary replacement to carry out the duties and responsibilities of the office until the legal process is complete.

Eminent Domain

VACo supports legislation preserving the necessary powers of local government and governmental agencies to avoid and abate blighted conditions through redevelopment, and preserving condemnation authority provided for public purposes such as schools, parks, roads and other purposes as set out in the code.

Freedom of Information Act Electronic Meetings

VACo supports amendments to the Virginia Freedom of Information Act that allow regional authorities, boards, bureaus, districts, political subdivisions, commissions or agencies of local government to conduct electronic meetings under the same provisions as state public bodies. VACo also supports legislation

allowing localities and regional bodies to conduct electronic meetings in the event of an emergency.

Grievance Hearings

VACo supports legislation authorizing localities to utilize an administrative hearing officer in lieu of the three-member panel. VACo also supports providing immunity to local government employees, officers, volunteers, administrative hearing officers and panel members for claims arising out of participation in personnel grievance procedures.

Homeland Security Emergency Preparedness and Volunteer Recruitment & Retention

VACo urges the General Assembly to maintain current state funding and make certain that localities, often the first responders, are included in the planning process for homeland security and emergency preparedness measures. Federal funds received for homeland security and emergency preparedness must flow through to local agencies, departments and authorities to pay for eligible costs. In furtherance of this goal, VACo supports legislation that provides local option for increased incentives for the recruitment and retention of volunteer public safety personnel who are crucial in these situations.

Sheriffs' Departments Staffing Standards

VACo supports legislation to change the Compensation Board's minimum staffing standards to fund at least 10 deputy sheriffs per county. The current standard provides one deputy per 1,500 people, with a minimum state funding level of five deputies per county. In a county with a small population but a large land area, five deputies are simply not adequate to perform 24-hour law enforcement, court security and other legally required duties.

Sovereign Immunity

VACo opposes any substantive change in local governments' present defense of sovereign immunity for tort liability.

Community Development & Planning

Affordable Housing

VACo supports increased federal and state funding and appropriate incentives to assist localities with their affordable housing.

Building Design

VACo opposes reducing local authority to regulate building design.

Civil Penalties for Local Ordinance Violations

VACo supports legislation granting localities general authority to prescribe civil penalties for violations of local ordinances.

Economic and Workforce Development

VACo supports increased state funding and support for workforce training and economic development programs as effective means for making the necessary investments in infrastructure and human capital.

Cost of Growth

VACo supports broad impact fee and conditional zoning (i.e., proffer) authority for localities in order to fund fully the public infrastructure and human capital. Current residents should not be expected to bear the cost of new growth through increased real estate taxes.

Impacts of Federal Projects and BRAC

VACo supports increased federal and state funding to mitigate the land use, environmental, and transportation impacts on counties affected by major federal projects and the most recent recommendations of the Defense Base Closure and Realignment Commission (BRAC).

Planning Districts

VACo supports the overall funding of Virginia's planning district commissions at a level of \$0.35 per capita or a minimum of \$100,000 per commission, whichever is greater.

Reimbursement for Infrastructure Improvements

VACo supports allowing all localities to require a future developer to reimburse the initial developer a pro rata sum for offsite improvements provided by the initial developer.

State Corporation Commission - Public Service Corporations

VACo supports requiring public utilities to provide written notice to those residing or owning property within the affected areas before they apply to the SCC for a certificate of convenience and necessity to construct or enlarge any facility.

State Project Approval

VACo supports authority for counties to approve any projects that are constructed within their jurisdiction using state funds.

Water and Sewer Fees

VACo supports allowing counties to enact water and sewer availability fees and mandatory water and sewer connection powers.

Environment & Agriculture

Biosolids

VACo contends that the land application of biosolids, when conducted properly, provides important benefits to the public and Virginia's agricultural sector. To reduce risks that might occur as a result of improper land application, VACo supports an effective statewide program and regulations governing land application of biosolids that protect the environment, public health and safety. VACo also supports the ability of local governments to monitor compliance with such regulations and the ability of local governments to submit recommendations for site-specific conditions into the permitting process.

Energy Efficiency

VACo strongly endorses aggressive initiatives among all levels of government to reduce dependence upon foreign sources of energy, to reduce emissions of greenhouse gases, and to improve energy efficiency. VACo also strongly supports production of renewable energy in Virginia through the implementation of Renewable Portfolio Standards of 20 percent by 2020.

Invasive Species

VACo supports adequate funding to implement the Virginia Invasive Species Management Plan.

Land Conservation

VACo supports targeted initiatives to facilitate the protection of 400,000 additional acres of land for conservation purposes by 2010. VACo also supports a Purchase of Development Rights program with state funding for the Virginia Land Conservation Foundation, and that provides incentives for landowners of all income levels to participate in the program.

Non-point Source Pollution

VACo supports a well-financed state program to address the problem of non-point source runoff from agricultural operations that would effectively encourage implementation of priority best management practices such as nutrient management planning, use of cover crops, continuous no-till farming, development of forested riparian buffers, and livestock stream exclusion.

Onsite Sewage Systems

VACo supports a legislative study on problems encountered by all localities when enforcing requirements relating to onsite sewage systems, including the five-year pump-out requirement by localities subject to the Chesapeake Bay Preservation Act.

Recycling

VACo supports the development of more aggressive strategies by the state to develop markets for recycled materials.

Southern Rivers Watershed Enhancement Program

VACo supports continued funding for the Southern Rivers Watershed Enhancement Program to improve water quality in non-Chesapeake Bay watersheds.

Waste Management Flow Control

VACo supports broad authority for local governments to adopt flow control ordinances.

Water Supply Planning

VACo supports additional appropriations adequate to ensure full funding by the state for the development of state-mandated water supply plans.

Finance

Employment Benefits

VACo calls on the state to fully fund state mandated retirement and employment benefits without using funds intended for other purposes (for example, the Literary Fund). Full state funding of mandated benefits includes those required by the Commonwealth for particular classes of employees (including teachers, as well as emergency service, fire and police officials).

Equal Taxing Authority

VACo supports granting counties the authority cities and towns retain to enact local excise taxes including the cigarette tax, admissions tax, transient occupancy tax and meals tax. VACo also supports granting counties specific powers enumerated to cities and towns under the Uniform Charter Powers Act.

Homestead Provisions

VACo supports a real estate homestead exemption, on a local option basis, granting local elected officials maximum authority to establish fiscal policies specific to their jurisdictions.

Land Preservation Tax Credits (LPTC)

VACo urges the Commonwealth to assess the long-term fiscal impact of its land preservation tax credit program on the state and its local governments, and to ensure appropriate coordination with affected local governments. The program protects specific lands from future development in exchange for a defined state income tax credit. The Commonwealth's land preservation tax credit is estimated to reduce 2009-2010 state biennial general fund revenues by \$400 million. The program also includes a broad definition of eligible lands in an attempt to protect vital properties. However, the policy affects state and local revenues. Regarding the latter point, lands should not be preserved without consideration of local comprehensive plans. Going forward, the state should ensure that applications for LPTC are consistent with local land use plans.

Study of Tax Authority for School Boards

Without advocating either for or against any proposal to authorize tax authority for school boards, VACo supports a legislative study of the issue.

Transient Occupancy Tax

VACo supports the authority of counties to apply an exiting Transient Occupancy Tax to short term rentals – single family residences rented out for continuous occupancy for fewer than 30 days.

Virginia's Inclusion in the Streamlined Sales Tax Project Agreement

VACo supports Virginia's inclusion in the Streamlined Sales Tax Project Agreement. Enacted by approximately 20 states and voluntarily enforced by more than 1100 national businesses, the agreement authorizes participating states to collect their existing yet often times unenforceable use taxes from out of state vendors. Virginians currently purchasing more than \$100 dollars of goods from out-of-state vendors are required, by statute, to remit the sales and use tax to the Commonwealth. If enacted by the General Assembly and governor, the agreement would require vendors to remit the required use tax. The change would result in increased annual collections to the state and localities.

Health & Human Resources

Aging/Long-Term Care

VACo supports efforts that allow the elderly to remain at home in a safe and secure environment. VACo urges the General Assembly to provide sufficient funding for companion services, in home services and home delivered meals.

Behavioral Health Care

VACo supports state funding that prioritizes the provision of mental health services for children. Funding streams through the Department of Mental Health, Mental Retardation and Substance Abuse Services must be increased to support services for children at risk of foster care and/or custody relinquishment.

The Commonwealth must support mental health services provided to high risk children by providing technical and comprehensive training to local government service providers. Training will assist local government service providers to use state and local funds for community based and residential services in a most efficient manner.

The Commonwealth should maintain, fully fund and continue to provide sufficient bed capacity at state facilities that offer services for mental health and intellectually disabled patients. These facilities should include inpatient treatment facilities for the long-term care of adults and adolescents.

The Commonwealth should continue to provide funding sufficient to allow community services boards to adequately meet the charge of providing services through a community-based system of care.

Child Care Funding

VACo supports adequate funding for the child daycare fee system and Temporary Assistance to Needy Families (TANF) child daycare funding.

Comprehensive Services Act

VACo supports additional state funding in the "CSA Pool" as local governments comply with additional mandated policy initiatives for children at risk of foster care and/or custody relinquishment. These initiatives increase the number of children eligible to receive "mandated" services. To ensure the delivery of

quality services and adequate follow-up, localities must have the flexibility to use state funding for direct and indirect costs associated with growing case loads of children already eligible for services and for the newly defined categories of children.

Healthcare

VACo supports continued state funding for dental care, school nurses and preventive services offered and maternal and child health programs through local health departments and local school systems. VACo encourages the state to prepare for emergency health services and develop incentives that would alleviate the nursing shortages felt in many communities.

Prevention Services

VACo supports sufficient state general funding that can be used for startup costs associated with community-based service programs. VACo recognizes that model programs such as Healthy Families, CHIP of Virginia, and the Resource Mother program are model programs that are operated throughout the state and requests the General Assembly provide additional funding for these and other home-based activities. Reductions in prevention programs will put numerous youth at risk of high-end CSA placements.

Telecommunications & Utilities

Communication Taxation

VACo is resolved to help ensure that the dollars generated by the new statewide communications sales and use tax reform law, on a locality-by-locality basis, are revenue neutral in the early years and escalate in the out years.

Interoperability

VACo supports the state's goal that by 2015 agencies and their representatives at the local, regional, state and federal levels are able to communicate using compatible systems, in real time, across disciplines and jurisdictions, to respond more effectively during day-to-day operations and major emergency situations. Local governments require new dedicated federal and state funding sources to achieve this goal.

Transportation

Billboards

VACo supports a requirement that proposed billboards in VDOT's right of way conform to local zoning and other applicable ordinances and local approval processes.

Bridges

VACo requests that adequate state funding be provided for repair and replacement of substandard bridges throughout the Commonwealth.

Inter-Directional Signage Program

VACo supports a requirement that any signs installed under VDOT's Interdirectional Sign Program, including the Tourist Oriented Directional Signs Program, conform to local ordinances, including any local approval processes.

Parking

VACo supports authority for counties to adopt ordinances regulating - including prohibiting - the parking of boats, RVs, utility trailers, campers, etc. on subdivision streets.

Pedestrians

VACo supports revisions to Virginia's existing pedestrian laws clarifying the responsibilities of drivers and pedestrians in order to reduce the number of pedestrian injuries and fatalities that occur each year. In addition, VACo supports a requirement that drivers stop for pedestrians in crosswalks when a pedestrian is within the half of the roadway that the vehicle is traveling and the speed limit is 35 miles per hour or less.

Rail Enhancement Fund Approval

VACo supports authority for counties to approve Rail Enhancement Fund projects funded by the state that are constructed within their jurisdictions.

Road Construction and Maintenance

VACo supports secondary street standards that protect public safety, minimize future maintenance costs and effectively manage stormwater. VACo opposes any legislation or regulations that would require the transfer of responsibility to

counties for construction, maintenance or operation of new and existing secondary roads. As a result of enacted 2007 legislation, VACo continues to participate in VDOT's ongoing secondary street standards regulatory process that will establish new state acceptance standards.

Securities for Subdivision Streets

VACo supports authority for a local governing body to determine requirements for developer securities for the construction of subdivision streets.

Separation of Federal Funds

VACo supports granting each county the authority, working with VDOT, to determine the percentage of federal funds applied to all secondary road projects within their jurisdiction. In addition, for any locally administered road projects, the county should be allowed to use all state funds, as long as they can obligate their federal funds on other projects.

Service Contracts

VACo supports administrative changes allowing all localities to use professional service contracts similar to other agencies of the Commonwealth (i.e. General Services.)

VDOT Cooperation

VACo requests full cooperation and responsiveness from VDOT in addressing local government concerns.

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