

DRAFT MINUTES
COMMISSION ON LOCAL GOVERNMENT (CLG)

Regular Meeting

10:00 a.m., March 10, 2008

Members Present

Vola T. Lawson, Vice Chairman
Harold H. Bannister, Jr.
John G. Kines, Jr.

Members Absent

Frances M. Parsons, Chairman
Kathleen K. Seefeldt

Staff Present

Susan Williams, Local Government Policy Manager
Steve Ziony, Principal Economist
Matthew Bolster, Senior Policy Analyst
Barbara Johnson, Administrative Assistant

Call to Order

In the absence of CLG Chairman Frances M. Parsons, Vice Chairman Vola T. Lawson chaired the meeting. Mrs. Lawson called the meeting to order at 10:16 a.m. on March 10, 2008 in the Board Room of the Department of Housing and Community Development (DHCD) at the Jackson Center in Richmond, Virginia.

I. Administration

A. Approval of Minutes of Regular Meeting of January 14, 2008

Mr. Bannister made a motion that the minutes of the Commission's regular meeting of January 14, 2008 be approved, such motion was seconded by Mr. Kines and the Commission unanimously approved the minutes without amendment.

B. Public Comment Period

Mrs. Lawson opened the floor to receive comments from the public. No person appeared to testify before the Commission during the public comment period.

C. Presentation of Financial Statement for February 2008

Referencing an internally produced financial statement that encompassed expenditures through the end of February 2008, Ms. Williams stated that the financial report covered two-thirds of Fiscal Year 2008 and that Commission expenditures for that eight-month period represented 65.16 % of the total amount budgeted for the current fiscal year. The members accepted the report for filing.

D. Local Government Policy Manager's Report

1. Marshall v. Northern Virginia Transportation Authority (NVTA)

Ms. Williams reported to the members that on February 29, 2008 the Virginia Supreme Court, in *Marshall v. Northern Virginia Transportation Authority (NVTA)*, held that the provisions of HB 3202 (i.e., Chapter 896 of the 2007 Acts of Assembly) permitting the NVTA to impose regional taxes and fees are invalid because they violate the Virginia Constitution. Ms. Williams indicated that the Court reasoned that the NVTA “is not a county, city, town, or regional government, and thus is not a political subdivision to which the General Assembly may constitutionally delegate its legislative taxing authority pursuant to Article VII, Section 2 [of the Virginia Constitution].”

2. Potential Interlocal Issues

Ms. Williams informed the members that the Winchester-Frederick County Unification Steering Committee has unanimously recommended that the Winchester City Council and the

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Frederick County Board of Supervisors select a form of government under which they can consolidate. A brief discussion ensued during which Mr. Kines inquired as to whether the annulment of a town charter requires a referendum. Prior to the end of the meeting, Ms. Williams distributed information on the process for annulment of a town charter as well as the process for consolidation of localities, both of which have a referendum component.

Next, Ms. Williams indicated that she received a request from a Town of Clarksville citizen for information relating to the process by which a town charter may be annulled as well as the process by which a town and county may be consolidated. Ms. Williams provided the citizen with information on both processes.

Ms. Williams then updated the members regarding the proposed consolidation of the Town and County of Culpeper that was first discussed at their January regular meeting. Ms. Williams explained that the county and town have one year from January 17, 2008 to negotiate a government consolidation plan. Ms. Williams further indicated that an attorney recently contacted her in connection with work he is performing for the Town of Culpeper, and he requested copies of all consolidation agreements in the CLG files, which information was promptly provided.

Finally, Ms. Williams updated the members regarding the Albemarle – Charlottesville Annexation and Revenue Agreement which was briefly discussed at their January regular meeting. Ms. Williams explained that the agreement became effective on July 1, 1982 and remains in effect until:

- The County and City are consolidated into a single political subdivision;
- or

- The concept for independent cities presently existing in Virginia is altered by the State law in such a manner that real property in the City becomes part of the County's tax base; or
- The County and City mutually agree to cancel or change the agreement.

Ms. Williams stated that there were no further updates or recent developments to report regarding the other potential interlocal issues discussed at prior meetings.

3. Meeting Per Diem

Ms. Williams stated that, in accordance with the Commission's policy on compensation and reimbursement, per diem will be paid to all members present for their service to the Commonwealth on March 10, 2008.

4. Other

Ms. Williams then updated the Commission on various other CLG initiatives and staff activities. Ms. Williams reported that work has begun on a test site in Share Point that will be used to establish an interactive website to collect fiscal impact information from local governments on mandates that are being assessed by state agencies. Ms. Williams also indicated that, in the coming weeks, she and Mr. Bolster will be working with other DHCD staff to redesign the entire CLG website. Ms. Williams stated that CLG staff has recently had preliminary meetings with DHCD information technology staff regarding both projects.

Ms. Williams indicated that, since the last CLG meeting, the workshop proposal prepared by Mr. Kines was submitted to the International City/County Management Association (ICMA) conference director to be considered for inclusion in the ICMA's annual conference program. Ms. Williams indicated that ICMA's conference director responded that there is not an opening

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on the program at this time but that he will keep the CLG's proposal in mind should an opportunity arise. Ms. Williams reported to the members that, in February, Mrs. Parsons sent letters to the Virginia Municipal League (VML) and Virginia Association of Counties (VACo) requesting the opportunity to address each organization at its annual conference regarding the new policies and procedures for state agency assessment of the mandates imposed on local governments.

Finally, Ms. Williams indicated that CLG staff attended the Virginia Association of Planning District Commissions (VAPDC) Winter Conference on January 28 in Richmond and participated in VML-VACo Legislative Day on February 7 in Richmond.

II. Fiscal Stress Report for 2005/2006

A. Staff Update

Mr. Ziony reported that, at the end of January, the staff of the Commission received the long-awaited financial data for Smyth County. Mr. Ziony reminded the members that the data was 14 months overdue. He explained that, with the pertinent statistics in hand, he recomputed the fiscal stress index. Mr. Ziony indicated that the new set of jurisdictional scores did not differ materially from the original distribution with respect to the hold-over series of 133 local values. He further noted that the modified index scores departed from the January numbers by margins varying from +.02 to -.10 of a single point. In addition, Mr. Ziony indicated that all of the carry-over jurisdictions retained the stress classifications that his initial work had yielded. As for Smyth County, Mr. Ziony reported that its index level of 173.15 placed that locality in the "above average stress" range of the ordinal scale. He further explained that he is now able to

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proceed with the development of a draft report, which he anticipates will be ready for posting as an electronic document by the end of March.

A lengthy discussion ensued among the members. First, the discussion focused on the presentation of data in the tables associated with the annual stress report. Mrs. Lawson indicated a desire to see score and rank data for each locality across time.

The focus of the members' discussion then turned to the additional computational work as well as the delay in the draft report necessitated by Smyth County's late filing of its data with the Auditor of Public Accounts (APA). With respect to the latter, Mrs. Lawson requested that Mr. Ziony draft a letter addressing this issue to the Smyth County Administrator for the Commission members' signatures.

Finally, Ms. Williams indicated that, once it is completed, CLG staff would like to post the draft fiscal stress report for 2005/2006 on the Commission's website prior to the next meeting. There was no objection to this request. Ms. Williams indicated that the draft report should be ready for posting in the next few weeks and that it will also be distributed to members at that time. She further indicated that Mr. Ziony will present the report to the Commission for their approval at the May regular meeting.

III. Assessment of State and Federal Mandates on Local Governments

A. Staff Update

Mr. Bolster referred to the Proposed Schedule of Mandate Assessment Periods, which includes 27 mandates. He noted that this represents a decrease of one from the list presented at the last meeting; a Library of Virginia mandate that was previously on the list has not yet been

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implemented through regulations. Mr. Bolster explained that, pursuant to Executive Order 58, a mandate must have been in effect for at least two years before becoming subject to assessment.

Mr. Bolster continued that staff had contacted all the state agencies with oversight responsibility for the mandates on the list and asked them to propose a 60- to 90-day assessment period for each. He indicated that most agencies chose periods in the first half of the next fiscal year and that, according to the schedule, all assessments for the 2008-09 fiscal year should be completed by April 30, 2009. Upon the Commission's approval of the proposed schedule, Mr. Bolster explained that the next step is to submit it to the Secretary of Commerce and Trade and the Governor for approval. Following their approval, he indicated that staff will submit the schedule to the Registrar of Regulations for publication in the Virginia Register, to the clerks of the House and Senate, to the state agencies, and to VML and VACo and that assessments will begin on July 1, 2008.

Mr. Bolster commented that the state agencies were no longer required to routinely reassess mandates that had previously been assessed. He explained that only new and newly identified mandates that have been in effect for at least two years must be assessed. Accordingly, Mr. Bolster noted that local government input will be much more important. He explained that, while such input has always been required, in the past some agencies made minimal effort to obtain it because many longstanding mandates were uncontroversial and generally accepted as necessary. Mr. Bolster indicated that the same assumption cannot be made for mandates that have never previously been assessed. He stated that, to aid the state agencies in their assessments and to ensure meaningful local government participation, staff will now solicit and obtain fiscal impact and other information from local governments on the agencies'

behalf. Mr. Bolster explained that the agencies and the localities will be able to post and share the information through the interactive website discussed previously and that staff is hopeful that this will result in a more meaningful mandate assessment process.

Finally, Mr. Bolster said that, pursuant to EO 58, VML and VACo will be asked to suggest any mandates that they would like to have reassessed, and he indicated that staff will send a letter to both organizations. Ms. Williams added that if the organizations want to have any mandates reassessed during FY 09, staff will propose amendments to the assessment schedule for the Commission's consideration.

Mr. Bannister made a motion to approve the mandate assessment schedule as presented. Mr. Kines seconded the motion, and it passed unanimously.

IV. 2008 General Assembly Session

A. Staff Update

Ms. Williams stated that VML secured volunteers representing ten local governments and VACo secured volunteers representing 25 local governments to participate in the local fiscal impact estimate process during the 2008 General Assembly Session. She reiterated that, by statute, the Division of Legislative Services (DLS) identifies and refers bills to the Commission for fiscal impact analysis and that VML and VACo can request additional bills for DLS referral. Ms. Williams reported that, this Session, DLS referred a total of 12 bills to the CLG for fiscal impact analysis, of which one-half were referred at the request of VACo. Ms. Williams then presented a "scorecard," which indicated the local governments that responded in a timely manner to each of the 11 bills sent out to local governments for review. The remaining bill was prioritized as a "C" bill by VML and VACo, and, as such, was not sent out to the localities for

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analysis; instead, the fiscal impact estimate was completed in-house by CLG staff. A brief discussion ensued during which Mr. Bannister asked whether the localities that did not respond in a timely manner (and whose information was therefore not incorporated in the fiscal impact statements prepared by CLG staff) were reflected on the “scorecard.” Ms. Williams indicated that only the jurisdictions that responded in a timely manner so that their input could be utilized in preparing the fiscal impact statements were included. Mr. Bannister requested that Ms. Williams prepare a document which includes the localities that responded but failed to do so in a timely manner. Ms. Williams then indicated that correspondence expressing the Commission’s gratitude will go out to each locality that participated in the process.

Next, Ms. Williams indicated that, this Session, CLG staff completed a total of 68 legislative action summaries (LASs) and 43 enrolled bill reviews (EBRs). She then handed out a tracking report that provided the bill number, a brief description and the current status for each of the bills assigned to the CLG staff for review that passed the General Assembly.

Ms. Williams then updated the members regarding the three study resolutions introduced this Session which would directly involve the Commission. First, HJ 156, which requested the CLG to study the need for contingency plans for local governing bodies to operate in the event of public health emergencies, was left in the House Committee on Rules.

Next, Ms. Williams indicated that HJR 111, which would have created a joint subcommittee to study the Dillon Rule and its impact on Virginia’s localities and would have required the CLG to provide technical assistance, was also left in the House Committee on Rules.

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Ms. Williams also told the members that SJR 70, which establishes a joint subcommittee to study development and land use tools in Virginia's localities was amended to specify that the Departments of Housing and Community Development and Transportation shall provide technical assistance. Ms. Williams indicated that SJR 70 and an identical measure – HJR 178 – were both approved by the General Assembly.

Finally, Ms. Williams reported that SB 768 which would replace the current cash proffer system with a system of impact fees was continued to the 2009 Session of the General Assembly. The members briefly discussed the Commission's role in collecting and reporting information under the bill.

V. Scheduling of Meetings

The Commission confirmed that its next regular meeting will take place on Monday, May 12, 2008 at the DHCD offices in Richmond. In addition, the Commission confirmed that the July 14 and September 8 regular meetings of the Commission are scheduled to take place at the DHCD offices in Richmond and that the November 10 regular meeting is tentatively scheduled to take place in conjunction with the VACo annual conference in Bath County.

VI. Upcoming Events of Interest

Ms. Williams reminded members of the following upcoming events of interest: NACo's 2008 Annual Conference and Exposition on July 11-15 in Kansas City, Missouri; ICMA's 94th Annual Conference on September 21-24 in Richmond; the 2008 VML Annual Conference on October 19-21 in Norfolk; and VACo's Annual Conference on November 9-11 in Bath County.

VII. Adjournment

There being no further business to come before the Commission, Mr. Kines made a

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motion which was seconded by Mr. Bannister and agreed upon unanimously that the meeting be adjourned. The meeting was adjourned at 11:55 a.m.

Frances M. Parsons
Chairman

Susan B. Williams
Local Government Policy Manager