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# COMMONWEALTH OF VIRGINIA



## OFFICE OF THE GOVERNOR

### Executive Memorandum 1-98

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## Establishment of Schedule and Format for Agency Assessment of Mandates on Local Government

### Purpose

To establish a process, pursuant to the provisions of Section 2.1-7.1 and Section 15.2-2903(6) of the Code of Virginia, by which the executive agencies of the Commonwealth shall critically assess and periodically reassess all the state and/or federal mandates which they administer for the purpose of determining which mandates, if any, may be altered or eliminated without interruption of local service delivery and without undue threat to the health, safety, and welfare of the residents of Virginia.

### Mandates Defined

- (a) For purposes of implementing Section 15.2-2903(6) of the Code of Virginia, a mandate shall be defined as a constitutional, statutory, or administrative measure or action that places a requirement on local governments.
- (b) Mandates placing requirements on local governments shall be classified as compulsory orders, conditions of financial aid, or the regulation of optional activities. These classifications shall be defined as follows:
  - (i) Compulsory Orders are measures or actions that impose requirements with which localities must comply in the performance of their prescribed responsibilities.
  - (ii) Conditions of Financial Aid are requirements, which are imposed as a condition of receiving state and/or federal financial aid.

- (iii) Regulation of Optional Activities are measures which impose state and/or federal government requirements relative to the performance of activities that are not mandated but are subject to such regulations if performed.

## **Requirements**

### 1. Assessment of Current Mandates

The executive agencies of the Commonwealth shall assess all local government mandates, which they currently administer, as determined by the Commission on Local Government and specified in the most recent edition of the *Catalog of State and Federal Mandates on Local Governments*, as follows:

- (a) All assessments performed by agencies pursuant to Section 2.1-7.1 and Section 15.2-2903(6) of the Code of Virginia shall be conducted consistent with the standardized assessment form appended to this Memorandum.
- (b) Agencies shall solicit in the conduct of each assessment evaluative comment from affected local governments on the mandate in question and shall report and respond to such comment as they deem appropriate in their assessment statements.
- (c) Agencies shall complete the assessment of all mandates within the scheduled assessment period established by the Commission pursuant to the provisions of this Memorandum.
- (d) Agencies shall submit their assessments with recommendations to the appropriate Cabinet Secretary for endorsement or amendment.
- (e) Agency assessments and Secretary review shall be initiated, conducted, and completed within the scheduled assessment period.
- (f) Completed assessments, signed by the Agency Head and approved by the Cabinet Secretary, shall be submitted by the agency to the Commission on Local Government no later than the terminal date of the scheduled assessment period.

- (g) The Commission on Local Government shall distribute copies of all completed assessments received from state agencies to the Governor, the Secretary of Administration, the Clerks of the House of Delegates and Senate, the Virginia Association of Counties (VACo), the Virginia Municipal League (VML), and to other interested parties upon request.
2. Annual Specification of Scheduled Assessment Period
- (a) Agencies shall submit to the Commission on Local Government by October 15 of each year a proposed schedule establishing specific dates for the assessment period for new or newly identified mandates, as specified in Section 4 of this Memorandum, or for the reassessment of existing mandates as may be appropriate pursuant to Section 5 of this Memorandum.
  - (b) The Commission on Local Government shall, in November of each year, adopt the schedule for assessment periods proposed by the agencies unless in its judgment substantial reason exists for modification.
  - (c) The Commission on Local Government shall submit to the Secretary of Administration and the Governor for their review and approval the schedule, which it has adopted in December of each year.
  - (d) Subsequent to the approval of the schedule of assessment periods by the Secretary of Administration and the Governor, the Commission shall forward copies of the adopted schedule to the affected agencies.
  - (e) The Commission on Local Government shall file with the Clerks of the House of Delegates and the Senate copies of all scheduled mandates assessment periods and any modifications thereof following their approval by the Secretary of Administration and the Governor. The Commission shall also file copies of the schedule and any modifications with VACo, VML, and with the Registrar of Regulations for appropriate publication in The Virginia Register.

3. Modification of Scheduled Assessment Period

- (a) With due notice and sufficient cause, approved agency assessment periods may be subsequently modified by the Commission upon request of the administering agency, affected local governments, VACo, VML, or upon its own initiative.
- (b) All modifications in agency assessment periods approved by the Commission shall be subject to the concurrence of the Secretary of Administration.

4. New and Newly Identified Mandates

- (a) Each year the Commission on Local Government shall endeavor to identify for inclusion in the subsequent annual catalog of state and federal mandates, as prescribed by Section 15.2-2903(7) of the Code of Virginia, all local government mandates not previously cataloged.
- (b) Executive agencies are directed to assist the Commission on Local Government in identifying new mandates, which they will administer and any currently administered mandates not previously identified.
- (c) Executive agencies administering such mandates shall be responsible for their assessment consistent with relevant sections of this Memorandum.
- (d) No mandate shall be subject to assessment by any agency until it has been in effect for a minimum of 24 months.

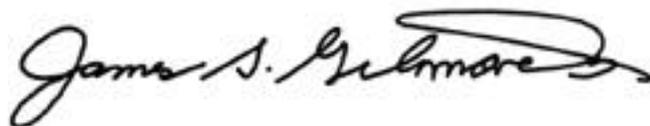
5. Reassessment of Mandates

- (a) Pursuant to Section 15.2-2903(6) of the Code of Virginia, the Commission on Local Government shall at its discretion, after consultation with the affected agencies, periodically call for scheduling the reassessment of mandates.
- (b) No mandate shall be subject to assessment more than once in any four-year period unless it has been subject to modification so substantial as to have created, in essence, a new mandate.

- (c) All reassessments shall be scheduled and conducted consistent with relevant sections of this Memorandum.

**Effective Date**

This Executive Memorandum supercedes Executive Memorandum 5-94 issued by Governor Allen on April 22, 1994. It shall become effective on October 13, 1998, and shall remain in force and effect until superseded or rescinded by further Executive Memorandum or by Executive Order.



James S. Gilmore  
October 29, 1998



**FORMAT  
FOR  
ASSESSMENT OF STATE AND FEDERAL MANDATES  
ON VIRGINIA LOCAL GOVERNMENTS  
(PURSUANT TO SEC. 2.1-7.1, CODE OF VA.)**

\_\_\_\_\_  
(Administering Agency)

\_\_\_\_\_  
(Date of Submission)

**[Instructions: Please type your assessment on separate paper following the headings provided below.]**

**A. Short Title of Mandate (5 words or less):**

**B. Specific Provisions of Mandate (10 lines or less):**

**C. Source/Authority:**

**1. Specify Each Applicable (with citations):**

a) Federal Statute:

b) Federal Regulation:

c) State Statute:

d) State Regulation:

e) Other:

**2. Extension of Federal Mandates by State Authority:**

**(Where the mandate is founded concurrently on State and federal authority, describe specifically those additional elements or details prescribed by State authority.)**

**D. Method by Which Agency Oversees Implementation of Mandate:**

**E. Fiscal Impact of Mandate on Localities:**

**1. Localities Affected:**

**2. Funding of Mandate:**

**a) Funding Formula:**

**(Indicate separately both State and federal contributions to cost of mandate in dollar amount and as a percentage of total cost of implementation.)**

**b) Estimated Range of Costs to Localities:**

**(Give the range of costs of compliance for localities and indicate specific factors affecting local impact.)**

**c) Explanation of Estimation Methodology:**

**F. Effectiveness of Mandate in Accomplishing Purpose:**

**1. General Purpose of Mandate:**

**(Explain briefly the overall objective this mandate is intended to accomplish.)**

**2. Description of Essentiality to the Public Safety:**

**(Describe the manner and the extent to which the mandate has protected and/or improved the health, safety, and welfare of residents of the Commonwealth. Describe the essential public purpose that this mandate accomplishes.)**

**G. Alternative Approaches to Achieving Purpose of Mandate:**

**1. Identification of Alternative Approaches:**

**2. Fiscal Impact of Alternative Approaches:**

**a) Estimated Change in Range of Costs to Localities of Alternative Approaches:**

**(Give the anticipated change in range of costs of compliance for localities and indicate specific factors affecting the variation in local impact.)**

b) **Estimated Change in Range of Costs to State of Alternative Approaches:**

c) **Explanation of Estimation Methodologies:**

H. **Agency Recommendation re Retention, Alteration, or Elimination of Mandate:**

1. **Determination by Agency:**

2. **Rationale:**

I. **Agency Contact re Assessment:**

1. **Name/Title:**

2. **Address/Telephone:**

\_\_\_\_\_  
(Signature of Agency Head)

**Approval of Assessment:**

\_\_\_\_\_  
(Signature of Cabinet Secretary)