

DRAFT MINUTES
Governor McDonnell's Task Force for
Local Government Mandate Review
June 7, 2012 at 12:00 p.m.
Central Virginia Community College, Lynchburg Campus
Merritt Hall, Room 5145
3506 Wards Road
Lynchburg, Virginia 24502

Members Present

The Honorable Pat Herrity, Chair
The Honorable Joan Wodiska, Vice-Chair
The Honorable Shaun Kenney
Kimball Payne

Members Absent

The Honorable Bob Dyer

Government Reform Commission
Liaisons to the Task Force Present

The Honorable Alicia Hughes [not present at beginning of meeting]
The Honorable Suzy Kelly

Government Reform Commission
Liaisons to the Task Force Absent

Staff Present

Susan Williams, Local Government Policy Manager
Barbara Johnson, Administrative Assistant
Ed Lanza, Senior Public Finance Analyst
Zack Robbins, Senior Policy Analyst

I. Call to Order

Mr. Herrity called the meeting to order at 12:16 p.m. on June 7, 2012, in Room 5145 of Merritt Hall at the Central Virginia Community College in Lynchburg, Virginia.

II. Approval of Minutes of Task Force Meeting on January 16, 2012

Ms. Wodiska made a motion, which was seconded by Mr. Kenney, to approve the draft minutes of the Task Force's January 16, 2012 meeting, as presented. Such motion passed unanimously.

III. Approval of Draft Agenda

Mr. Kenney made a motion, which was seconded by Ms. Wodiska, to approve the draft agenda. Such motion passed unanimously.

IV. Staff Review of 2012 General Assembly Actions

Ms. Williams presented an overview of General Assembly actions that were taken during the 2012 session to implement the Task Force's recommendations.

Mr. Herrity stated that there were additional bills that were intended to ease burdens on local government, citing HB 1164 as an example. Ms. Williams stated that staff has created a list of such bills, and said she would send a copy to the members.

Ms. Wodiska recognized the staff of the Commission on Local Government for their assistance during the General Assembly session.

V. Update from the Governor's Office

Mr. Jeff Palmore, Director of Policy Development, Governor's Policy Office, provided the Task Force with an update of activities in his office relative to the Task Force's work. He said that the administration was beginning to work on the Task Force's remaining recommendations for potential legislation at the 2013 session, potential repeal of administrative regulations, and possibly other administrative actions, such as Department of Education Superintendent's Memos. He also said that his office was beginning to work with the Commission on Local Government staff on revisions to the assessment process currently accomplished through Executive Order 58 (2007).

Ms. Wodiska asked for an update on the progress of the Task Force's goal of reducing Department of Education reports by 15%. Mr. Palmore responded that his office will soon be meeting with stakeholders to initiate this process. Mr. Payne suggested that local school division representatives and the Virginia School Boards Association should be involved in that process.

VI. Review of mandates set aside for further study

The Task Force then reviewed the attached document "Mandates for Further Study with Agency Comments" to determine what action to take on these items. By consensus, the Task Force agreed to the following actions:

- Items 1 & 2 (Submission of local financial information to APA): Invite the Auditor of Public Accounts to attend the next Task Force meeting to provide additional detail as to how the data could be better collected, and analyze the requirements for redundancy. Also, invite the locality/localities that submitted the suggestion.

Mr. Lanza reported that the APA is currently conducting a review of the reporting process with its customers.

- Item 3 (Contracts for CSB Directors): Invite DBHDS and submitting locality.
- Item 4 (Additional CSA Executive Council representation): No action. This was addressed by the 2012 General Assembly.

- Item 5 (Dam Regulations): Invite DCR to provide a progress update.
- Item 6 (TMDL & Stormwater Compliance): Continue monitoring this item, but take no immediate action.
- Items 7 & 8 (Landfill Surface & Groundwater Testing/Local Landfill): Invite DEQ to provide an update and advise how many sites have certain requirements.
- Item 9 (Contractor's License requirement for obtaining building permit): Drop from consideration.

With respect to the comments provided by DPOR, Phil Abraham, Vector Corporation, stated that he believes the agency's intent was to keep the requirement, but address the redundancy and/or conflict between the building code and statute.

- Items 10 & 11 (Annual Report of Guardians/Family Partnership Meetings): Invite agencies to provide additional background and advise commenting localities.
- Item 12 (Recordkeeping and retention): Additional information from the locality should be obtained as to which requirements are burdensome. Find out from the Library of Virginia what process exists for localities to provide input on the requirements.
- Item 13 (Public Notices in Newspapers): Expand scope to include procurement. Invite Delegate Landes – who, according to Ms. Williams, has previously introduced legislation that would address this recommendation – to an upcoming Task Force meeting.
- Item 14 (Certified Public Librarian): Invite Library of Virginia and locality to provide input on the impact of a higher population threshold. Additionally, contact the commenting locality for information about its impact. Ms. Wodiska asked Mr. Abraham to seek information about the impact on rural localities. Invite the Secretary of Education to provide comment on the lack of Library Science programs in the state's universities.
- Item 15 (Circuit Court Fee Collection): Invite the locality, Supreme Court and Compensation Board to provide clarification as to the requirement.
- Item 16 (Comprehensive Animal Care Laws): Recommend elimination of § 3.2-6259, and invite the State Veterinarian to provide an overview of state requirements.
- Item 17 (Health Department Information Technology): Seek more information from VITA and localities as to the burden and check with Fairfax County specifically.
- Item 18 (Six Year Secondary Improvement Program): Invite VDOT to provide additional information.

- Item 19 (Watch for Children Signs): No action. This was addressed by the 2012 General Assembly.
- Item 20 (Bike & Pedestrian Trail Stormwater Regulations): Drop from consideration, as there is no such requirement.
- Special Education Mandates & Testing and Assessment Requirements: These items should be addressed by the education subcommittee, with additional public input, and by surveying school officials.

VII. Discussion of Task Force Goals for the Coming Year

Mr. Herrity outlined the goals that he foresees the Task Force working on this year: (1) removing specific mandates, concentrating on education; (2) process improvements for mandate review, (3) studying the fundamental relationship between state and local governments; and (4) studying the mandates that were enacted during the 2012 General Assembly session.

Ms. Wodiska stated that other state legislatures have more detailed fiscal impact reviews, and suggested studying the processes that are in use in other states.

Ms. Kelly suggested studying Freedom of Information Act requirements on localities, specifically citing burdens relating to the definition of "meeting" including three or more members of a body.

Mr. Kenney suggested concentrating on transportation, (specifically on preventing devolution), education and process.

Mr. Payne commented that there would be some value in seeing how many bills failed during the 2012 General Assembly session to measure the Task Force's success.

Mr. Payne indicated that the Department of Social Services is beginning a process to review its relationships with local governments, and suggested that this initiative be extended to other areas such as education and transportation.

Ms. Wodiska suggested studying the State of Tennessee's reform initiatives.

VIII. Modification of Temporary Committees

Mr. Herrity suggested establishing a new set of subcommittees for the coming year.

Ms. Hughes arrived at approximately 1:52 p.m.

Upon a motion by Ms. Wodiska, which was seconded by Mr. Kenney, the Task Force agreed to the following subcommittees:

Education: Joan Wodiska (Chair), Shaun Kenney

Mandates: Pat Herrity, Alicia Hughes, Suzy Kelly

State-Local Relationships: Shaun Kenney and Kimball Payne (Co-Chairs), Pat Herrity (to assist with transportation)

Due to Mr. Dyer's absence, he will select the subcommittee(s) on which he will serve at a later time.

IX. Public Comment

No members of the public came forward to address the Task Force.

X. Comments by Task Force Members

There were no additional comments by members.

XI. Scheduling of Future Meetings

Mr. Herrity suggested for discussion at the next meeting: new mandates, education, Department of Social Services' current reform efforts, and Tennessee's reform efforts. Ms. Wodiska said she was going to provide staff with a study on government reform in other states. Mr. Palmore offered to assist with arranging for subcommittees to meet with agencies as needed.

The Task Force agreed to meet next on July 30th at 11:00 a.m., to be held at the Virginia Housing Center if space is available.

XII. Omnibus Mandate Bill Signing Ceremony

The Task Force recessed at 2:03 p.m. During the recess, the Task Force members attended Governor McDonnell's bill signing ceremony for bills that provided local government mandate relief, also in Room 5145.

XIII. Adjournment

Immediately following the bill signing ceremony, the Task Force was adjourned.

Mandates for Further Study with Agency Comments

Description	Possible Solution	Reference
Appendix 3: General Mandates Recommended for Further Study		
<p>1 Non Essential Reporting Requirements--the Comparative Report of Local Government Revenues and Expenditures require multiple forms of reporting. Many reports are redundant and unnecessary and provide little to no use for citizens.</p>	<p>Examine the requirements laid out in the Comparative Report of Local Government Revenues and Expenditures to find redundancies and to ensure only that which is necessary and of use is reported.</p>	<p>LEG.APA001 & LEG.APA002</p>
<p>APA Retain</p>	<p>First, the first recommendations on your list pertain to reporting requirements under GASB and for the Auditor of Public Accounts. We would recommend that the task force not pursue action on these issues in the 2012 session. These are complex issues that deserve a measured, careful approach that is more suitable for work in the interim between sessions.</p>	
<p>In terms of the recommendations related to the comparative cost report, you may wish to ask a group of local officials (for example, managers, budget officers, finance officers, treasurers) to work with you on potential changes to the collection and presentation of information in that report. This report is very useful to local officials, but that does not mean that improvements cannot be made.</p>		
<p>Turning to the recommendation regarding GASB standards, auditors and rating agencies will be examining state and local finances in light of those requirements regardless of state law. Ignoring them or establishing different standards could lead to downgrades in bond ratings. Again, it may be better to defer any action on this recommendation until after the session. There may not be much that the task force can do in this area, regardless of how desirable that is.</p>		
<p>2 APA Requirements--the APA mandates an annual comprehensive report be submitted by every locality. Many of the information is already available in the CAFR. Requiring an additional report duplicates effort.</p>	<p>Align APA requirements to those presented in the CAFR.</p>	<p>LEG.APA001 & LEG.APA002 § 15.2-2510</p>
<p>APA Retain</p>	<p>Other than the information discussed about the comparative report, the only information that we request from local government is the collection of state revenues by the Constitutional Officers. These collections are not part of the locality's annual audit and some localities do not include this information in their annual audited financial report. Statewide last year, the collections were over \$255 million.</p>	
<p>□The information requested comes directly from the locality's general ledger and requires no special formatting or reproduction. The Constitutional Officers in many cases keep separate records of these collections. Other than this information, we request no other information from the localities on a regular basis.</p>		
<p>3 Contracts for Community Services Board Directors-- Longer contracts are needed to take advantage of potential cost savings.</p>	<p>Allow local governments to enter into longer term contracts with board directors.</p>	<p>SHHR.DBHDS002</p>
<p>DBHDS Retain</p>	<p>The Department has several concerns about this Problem statement and the Possible Solutions. Section 37.2-100 defines three types of CSBs; there are 28 operating CSBs that employ their own staff, 10 administrative policy CSBs whose staff are employees of local government, and one local government department with a policy advisory CSB. It should be noted that subdivision A.6 of § 37.2-504 contains no requirement for the executive director of an administrative policy CSB or a local government department with a policy advisory CSB to be employed under a contract at all; presumably that is a decision made by the involved city or county governments.</p>	
<p>1.□The problem statement identifies potential cost savings. Any cost savings would be doubtful if not non-existent, certainly in terms of salary. If the potential cost savings are</p>		

Description	Possible Solution	Reference
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related to the administrative cost of processing the contract annual, this cost is extremely minimal for operating CSBs and the BHA since the contract is renewable annually.

2. The fact that contracts can be renewed annually means they are usually already longer term contracts, often for multiple years.

3. Despite language in the Possible Solution, employment contracts for operating CSBs are not between local governments and executive directors, they are between the operating CSB or BHA board and its executive director or chief executive officer (CEO) who are not employees of local governments.

4. This recommendation does not reflect the primary purpose of having the contract renewed annually, which is increased accountability of the executive director or CEO to the CSB or BHA board of directors. Annual renewal permits the board of directors to terminate the executive director's or CEO's employment simply through non-renewal if the situation is not working well. Annual renewal also supports an annual review and updating of the performance objectives and evaluation criteria required to be in the contract by the Code sections cited above.

5. Finally, since this mandate does not apply to administrative policy CSBs or the local government department with a policy-advisory CSB, it is not a mandate on local governments themselves. It is a mandate only on the 28 operating CSBs and the BHA, which are not city or county government departments.

Therefore, based on these concerns, the Department urges that this recommendation be deleted and the mandate be continued.

4 CSA State Executive Council-- Local governments are a major funding partner for CSA however representation on the State Executive Committee does not reflect this fact.	Give local governments more representation on the CSA State Executive Committee.	SHHR.CSA001
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Recommendation adopted. Local government representation will increase from 3 to 5 local representatives on this 19 member council. (HB135/SB396)

CSA Retain

The CSA was passed by the 1992 session of the General Assembly. The law created the State Executive Council (SEC) as the supervisory and policy-making entity for administration of the CSA. Representation on the SEC is established by the Code of Virginia, § 2.2-2648.B. The Secretary of Health and Human Resources serves as the chair of the SEC. The Office of Comprehensive Services (OCS) is the state agency responsible for administration of the CSA and implementation of policies of the SEC.

The CSA initially directed membership of the Council to include seven members including the Commissioner of Health; the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services; the Commissioner of Social Services; the Superintendent of Public Instruction; the Executive Secretary of the Virginia Supreme Court; the Director of the Department of Youth and Family Services; and a parent representative. Since initial inception, the membership of the Council has grown significantly to create a body inclusive of key stakeholder representation. The SEC currently has nineteen members with eighteen voting members. The voting membership includes the following:

- Seven state agency heads (Health, DBHDS, DSS, DOE, DJJ, DMAS, Supreme Court)
- One chair of the State and Local Advisory Team (local government representative)
- Three local government representatives
- One public provider (by default, is a local entity)
- Two private provider representatives
- Two parent representatives

- Two legislative members (member of the House, member of the Senate)

In addition to the voting members, the Governor's Special Advisor on Children's Services serves as an ex-officio non-voting member of the Council. In the event of a tie vote, the Chair of the SEC serves as the tie-breaker.

The General Assembly has long recognized the need for local government representation on the State Executive Council and has increased the number of local representatives over the years.

- 1996: Added to the Council "an elected or appointed local official..."
- 2000: The number of local government officials was increased to "two elected or appointed local officials ..."
- 2009: The membership was expanded to include "three local government representatives..."

Local government representatives now comprise the largest non-state agency stakeholder sub-group on the Council. In addition to the three specifically designated local government members, there are two additional local government representatives on the SEC by virtue of their roles. The Chair of the State and Local Advisory Team (SLAT) must, in

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accordance with Code § 2.2-5201, be a local government representative. In addition, the "public provider" member of the Council is by default a local government representative as the sole public provider of children's services purchased through CSA is the local Community Services Board. Thus, local government representatives comprise five out of eighteen voting members of the Council, i.e., 27% of the voting membership.

The Task Force recommendation states that the local representation on the SEC does not reflect that local governments are a major funding partner in CSA. In FY2011, the local share of CSA expenditures was 34.79%. With a voting membership of 27%, the representation of local governments on the SEC does in fact reflect its significant partnership and nearly reflects the level of its contribution to overall expenditures. In contrast, state agency voting members represent 38% of the Council though the state's share of expenditures in FY2011 was 65.21%. It must be noted that, by design, membership on the SEC includes representation of far more than "funding partners." An attempt to assure representation on the SEC according to funding contribution runs counter to the clear intent to assure representation of all key stakeholders.

Local governments are the direct implementers of CSA as they administer the use of both state and local funds under the CSA. They plan, purchase, and oversee the services to youth and families. As vital CSA partners, their voice and perspective are essential in assisting other members of the SEC to understand how policy decisions affect not only local governments, but the children and families served. Other stakeholder groups represented on the SEC, e.g., private providers and parents, have equally vital perspectives on the impact of policy decisions on services, youth, and families.

The effectiveness of any governing body is impacted by the size of that body. With a current membership of nineteen members, the SEC is a large governing body and its size compromises its efficiency to accomplish its charge. To address this issue, the SEC elected to form an Executive Committee and two subcommittees to focus on essential areas and provide recommendations to the Council at-large. As proposed for ratification by the SEC on December 15, 2011, a local government representative will serve as one of five members on the Executive Committee, one of three members of a Finance Committee, and one of four members of an Outcomes Committee. Further expansion of the Council proves problematic for several reasons. 1. Increasing the size of the Council diminishes its ability to function effectively. 2. Increasing the size of a particular stakeholder group, e.g., in an effort to match its representation to its financial investment, is inconsistent with the intent that membership of the Council assure representation of multiple key stakeholder perspectives. 3. Increasing membership within existing stakeholder groups on the Council does not further the purpose of the Council in its role of oversight of the CSA. The addition of more members of a specific stakeholder group does not add new or different stakeholder perspective to the body. The State Executive Council is comprised of representatives of a broad spectrum of stakeholders, each with key interest and significant investment in the CSA. Non-state agency representatives comprise the majority of seats on the Council holding eleven out of eighteen voting seats. Local government interests are currently well-represented on the Council and, in fact, represent the largest subgroup of non-state agency representatives.

<p>5 Increased dam regulations--The regulations adopted in 2008 raised dam safety standards and required many dams and watersheds across Virginia be brought up to compliance. The pre-2008 regulations sufficed and existing infrastructure that complied with the pre-2008 regulations have handled historic flooding with little to no issues. The new requirements will mean that local governments must now improve dam and watershed infrastructure to bring them into compliance and will cost local governments millions (Amherst County is specifically estimating \$8 million.)</p>	<p>Amend regulations to seek greater balance between risk, economics, and public safety. This mandate was categorized as both "Advance" and "Further Study" because the Task Force wants to support efforts to relax the existing requirements and study the issue further.</p>	<p>SNR.DCR020</p>
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DCR

We thank you for your leadership on this item. We support the removal of language regarding repealing the 2008 Impounding Structure Regulations in favor of directing the Virginia Soil and Water Conservation Board and the Department to continue to seek a balance between public safety and the associated risks of dam failure as well as the economics of upgrading spillway designs. The Department and Board working with the Governor and the General Assembly have been diligently and collaboratively working to further refine the requirements since the passage of these regulations. The 2008 regulations themselves brought forward several fundamental and critical aspects to public safety such as mapping of dam break inundation zones as well as enhancements to emergency actions plans. These are basic building blocks of a dam safety program and should remain in place. However, the Department continues to review opportunities to rationalize spillway design engineering requirements. For example, the Task Force raised a concern about the design criteria for a spillway being based on a rare storm event that would create the probably maximum flood (PMF). Although storm events of this magnitude have occurred in Virginia and neighboring states in recent history, we determined that for existing dams, 0.9 of the probably maximum precipitation (PMP) was likely an appropriate design for high hazard dams and that given specific circumstances this could be further reduced to 0.6 PMP. This has translated to a significant savings for dam owners. Likewise, last week,

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the Virginia Soil and Water Conservation Board approved a final fast-track regulation that will also reduce regulatory burden on dam owners. The regulations establish:

- A general permit with minimal requirements and lower costs for low hazard dam owners;
 - Simplified, low-cost, dam break inundation analysis and mapping available from DCR;
 - Inclusion of criteria to classify low hazard dams based on low volume roads; and
 - Incremental damage assessment available for potential reduction of hazard classification in addition to spillway design flood for lower costs for dam owners.
- The Department is committed to advancing a balanced program and making adjustments to the regulations where appropriate to do so. It is also noteworthy that the Department has also been providing increased grants from the Dam Safety, Flood Prevention and Protection Assistance Fund to assist dam owners with compliance (\$855,000 awarded in 2011). Additionally, the Department is advancing several initiatives to provide technical assistance to dam owners and to advance the program including increasing dam owner outreach through holding periodic training sessions, distribution of a dam owner's handbook, and distribution of an e-newsletter as well as initiating a real-time, web-based, dam break early warning system that collects data from live sources/feeds and triggers alerts or other notifications if warranted to dam owners and emergency responders.

<p>6 TMDL & Stormwater Compliance--new developments, redevelopments, and existing developments are required in some cases to comply with numerous TMDL and stormwater regulations. Not only does the compliance with these requirements pose a significant financial burden to local governments and developers, in many cases rural governments lack the ability to attain at a cost effective rate expertise needed to ensure compliance.</p>	<p>Relax regulations and provide state assistance by way of human resources to rural localities to ensure full monitoring and permitting of these regulations.</p>	<p>SNR.DCR006 & Clean Water Act</p>
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DCR

As noted above, the Department recently completed a lengthy regulatory action that updated the stormwater regulations to ensure that they comply with federal requirements and are protective of water quality. There was stakeholder consensus around these regulations. The regulations are reflective of federal requirements and will be protective of water quality. Any relaxation of these regulations would likely result in the Environmental Protection Agency withdrawing our administration authority as we are administering a federal program under the auspices of the federal Clean Water Act. Similarly, compliance with TMDLs are a requirement of the federal Clean Water Act and the state and localities have to cooperatively find solutions to meet the necessary water quality improvements in order to eliminate the specified impairments. We share localities' concerns regarding the compliance costs and are working with the Governor and General Assembly to assist localities and other impacted stakeholders with technical and financial assistance.

<p>7 Landfill Surface and Groundwater Testing--current mandate requires a monthly report on ground and surface water quality due to landfill offsite migration concerns. Remediating the impact of ground water impact occurs over years and changes on a monthly basis are negligible.</p>	<p>Modify the requirement to permit annual or semi-annual reports.</p>	<p>TBD</p>
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DEQ Information Only

The Department is not aware of any mandate for monthly reporting on groundwater or surface water testing in Virginia's solid waste regulations (9 VAC 20-81) or in the Federal Subtitle D program (40 CFR 258 et. seq.). Facilities that are subject to corrective action (the program to respond to groundwater contamination from landfills) may have monthly reporting requirements tied to their remediation system like in-situ injection or groundwater pump and treat systems, or perhaps as part of their Virginia Pollution Discharge Elimination System permit. This would be a site-specific requirement to monitor the effectiveness of the corrective action program at the facility (9 VAC 20-81-260.D.I.c); it is not a statewide mandate.

Additionally, for sites with known groundwater plumes at their property boundary(ies) and adjacent landowners that use private wells for drinking water, monitoring of the property boundary wells may be required at a monthly frequency until such time as the remediation system is fully operational in order to protect the off-site landowner from exposure to carcinogenic or otherwise toxic compounds in contaminated groundwater. Such a site-specific requirement may be necessary to protect public health or the environment as authorized under

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9VAC20-81-430. At the request of the facility, DEQ will consider amending such site-specific monthly monitoring requirements based on the specific site conditions/issues.

<p>8 Local Landfill Closures--there are currently ongoing reporting and monitoring requirements for all closed local landfills. Administratively burdensome and could serve no purpose</p>	<p>Eliminate the requirement to monitor closed landfills that have had no identified problems for 3 or more years.</p>	<p>SNR.DEQ032</p>
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DEQ Retain

Closed landfills are required under current regulations (9V AC20-81-170) to monitor for environmental impacts for a minimum defined post-closure care period. For those that are classified as Subtitle DI (or equivalent) landfills, that minimum time period is 30 years, as specified in the Federal Subtitle D program under 40 CFR 258. For those that are not classified as Subtitle D landfills, that minimum time period is 10 years. The purpose of the monitoring period is to ensure that leachate from the old closed landfills is not adversely impacting groundwater on neighboring properties or otherwise adversely impacting public health. An owner/operator of a facility may ask DEQ to be relieved (or for reduction) of these monitoring requirements based on site-specific information and many have successfully done so.

<p>9 Contractor's License required for building permit--this requires that proof of a contractor's license be shown before a building permit is issued. Virginia Code 54.1-1111 states that alternatively an affidavit that the contractor is not subject to licensure is a reasonable substitute to a contractor's license. These 2 mandates are in direct conflict.</p>	<p>Eliminate this mandate and defer to existing code.</p>	<p>NSO.021</p>
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DPOR Information Only

Section 54.1-111 of the Code of Virginia requires local building officials and revenue commissioners to verify licensure status of contractor applicants for permits and business licenses, respectively. Contractors may meet the requirement by furnishing evidence of a state license issued by the Virginia Board for Contractors at DPOR or, if the applicant is exempt from the licensure requirements (i.e., a homeowner applying for a building permit for his own property), by providing an affidavit declaring such exemption. Uniform Statewide Building Code (USBC) regulations (13 VAC 5-63-80.D), promulgated by the Department of Housing and Community Development (DHCD), reiterate the provisions of § 54.1-111. This regulation is reflected in the Catalog as item NSO.021.

The longstanding rationale for requiring building officials to obtain proof of contractor licensure (or exempt status) is to promote public protection by preventing unlicensed or improperly licensed contractors from obtaining building permits. In 2010, the General Assembly applied the verification provision to local business licenses as well, in an effort to prevent unlicensed contractors from skirting state regulation while obtaining or renewing a local business license.

If removing the duplication is paramount, DPOR recommends retaining the Code provisions of § 54.1-111, in order to provide local prosecutors with adequate statutory justification for pursuing any violations. Criminal enforcement of a statute is often more feasible than enforcing a regulation contained in the USBC.

Ultimately, neither the Board for Contractors nor DPOR is granted jurisdiction over the provisions of § 54.1-111 (as it governs the activities of local officials), and elimination of the statutory reference while retaining the USBC regulation would not affect agency operations. However, if the USBC regulation is retained in lieu of the existing Code section, the regulatory reference to the statute would need to be deleted.

<p>10 Annual Report of Guardians--state code outlines specific procedures for the filing and reporting of the annual report of guardians The rigorous requirements seem overly burdensome and draining on local government resources.</p>	<p>Relax these procedures and allow for more electronic submissions to streamline the process.</p>	<p>SHHR.DSS067 & § 37.2-1021</p>
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DSS Information Only

As a point of clarification, Title 37.2 falls under the purview of Behavioral Health and Developmental Services, rather than DSS. However, it directly involves local departments of social services. The annual guardian report to local Adult Protective Services (APS) is the only monitoring and review process for court-appointed guardians of vulnerable individuals who are incapacitated by age or disability. Local APS staff review reports for indicators of possible abuse, neglect or exploitation, which are investigated.

Description	Possible Solution	Reference
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Guardianship abuse is rising nationwide, as is the incidence of adult abuse. In Virginia, total reports of abuse, neglect and financial exploitation of vulnerable adults increased by 15 percent from SFY 2009 to 2011. Substantiated cases of financial exploitation increased by 38 percent. The number of guardianship reports filed increased by 32 percent.

Relaxing procedures would leave many incapacitated adults without any review of their safety. Facilitating electronic submissions to streamline the process is feasible but would have a state and local fiscal impact.

<p>11 Family Partnership Meetings--meetings are now required by the state for foster children at certain times in their lives. An expansion of the requirement is foreseen. The staff time and resources to facilitate these meetings is burdensome to local governments.</p>	<p>Minimize the number of required meetings.</p>	<p>DSS Guidance Document</p>
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DSS Retain

The requirement for Family Partnership Meetings (FPM) is not based in Code, but in DSS guidance. Guidance for CPS and Foster Care provides instruction for when and how to conduct FPM. Implementation of FPM is part of Virginia's Program Improvement Plan (PIP), developed after the last federal child welfare review. DSS must report quarterly to the federal government on FPM activity. Not meeting PIP goals could result in penalties for Virginia.

FPM are currently required at four critical decision points in the CPS or foster care case. No additional requirements are expected. While it is labor intensive to plan, facilitate and provide appropriate follow up to a FPM, localities that have been using them effectively are reporting good results in preventing foster care and in achieving permanency for children who must enter care. This is an evidence based practice that is accepted nationally as a proven strategy for teaming with all parties interested in a particular child's welfare. It enables families and others who care about a child to be part of the planning for that child to keep him safe or provide a permanent home for him as soon as possible. A number of localities that have fully utilized this strategy are reporting being able to shift staff to help with the facilitation of the meetings and to reduce CSA spending. This is a practice that benefits children and families and should be fully supported, not diminished.

<p>12 Record keeping and retention requirements-- In general, these requirements are near impossible to meet, over burdensome, redundant, and resource consuming with little to no use served.</p>	<p>Reform the state record keeping and retention requirements.</p>	<p>SOE.LVA005</p>
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LVA Information Only

The Library Board and the Library of Virginia are responsible under the Code for carrying out the provisions of the Virginia Public Records Act.

Records management in the public sector fosters the efficient and effective control of the creation, maintenance, use, and disposition of government records. Public officials are legally responsible for creating and maintaining records that document the transactions of government. These records provide evidence of the operations of government and accountability to its citizens. A sound records management program safeguards vital information, minimizes an agency's risk of litigation, and ensures compliance with federal and state records-retention laws. When a records management program is in place, an agency will save money. Records can be located quickly in response to agency needs and citizen requests, and records that are past their life cycle can be securely destroyed, avoiding expensive storage costs.

A records series is a group of related records that are normally filed together and document a particular function, transaction, or activity. There are 1,135 active records series pertaining to the 33 General Schedules that apply to localities in Virginia. Of those records series, 119 are permanent (representing only 10% of all records series), in many cases by Code mandate, such as adoption, land, and fiduciary records. In fact, many permanent records may be transferred to the Library as archival items, further reducing the strain on local resources. Of the remaining 1,016 non-permanent records series (e.g. election, assessment, sheriff and regional jails, parks and recreation, fire and rescue, and the like) 978, or 89%, have a retention period of 10 years or less.

The Library's records management staff conducts periodic reviews of the retention schedules, endeavoring to maintain the proper balance between government accountability to its citizens and the weight of the responsibility that maintaining records places on local government. The Library maintains a strong working relationship with local records officers

Description	Possible Solution	Reference
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and hopes that they would communicate issues/concerns to us. If particular records requirements are causing problems for localities in these challenging fiscal times, the Library's staff stands ready to discuss and examine them to see if adjustments can be made. The Library would welcome knowing which specific records series are causing concern to localities so that we can initiate a review of those requirements, involving local records officers in the review process.

13 Newspaper Ads--current code mandates that newspapers be utilized for public meeting notices for a local government. This is very expensive to enact and electronic resources could be implemented.	Modify mandate to allow for electronic advertisements.	NSO.114
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14 Certified Public Librarian--code requires that the head of a public library in a jurisdiction with more than 13,000 people must have a state certification. Unnecessary and the costs are shifted at times onto the head of the public library to attain the certification.	Eliminate.	SOE.LVA001
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The 13,000 population threshold was raised to 15,000. (HB294)

LVA Information Only

The Code of Virginia and State Library Board regulations require, as a condition of receipt of State Aid to Public Libraries, that the library director at local public libraries receive certification from the State Library Board. To be certified, a librarian must hold a graduate degree in library and information science from a university that is accredited by the American Library Association. This requirement insures a basic level of professional training for the person in each locality charged with overseeing the expenditure of significant amounts of state as well as local funding. In most localities, the occupational classification for a library director requires the same skills and education sets required of upper-level administrative staff of local government. Certification helps maintain the standards of managerial skills among library directors, helping to ensure that libraries are run efficiently and that they effectively meet the changing needs of the citizens in their communities.

The certification requirement is not an unfunded mandate. Virginia currently appropriates more than \$14 million a year in state aid to local libraries and up to 25% of a library's state aid may be used to support the library director's salary (since a degreed professional salary is usually higher than positions that do not require an advanced degree). Localities may opt not to fulfill this requirement and instead may take a 25% reduction in their library's state aid grant. In recognition of recruitment challenges in smaller localities, the population at which a certified director is required was increased to 13,000 in FY2006.

No Virginia university offers a master's degree in library and information science, but through the Academic Common Market, Virginia residents are able to earn the degree with in-state status, making the tuition much more affordable. Many schools that offer Virginians in-state status also offer the degree program via distance education. If a library wishes to hire someone as director who does not hold the master's degree and assist them in earning this credential, some funds from the library's state aid grant can be used to defer the director's educational costs. Also, in extenuating circumstances, the Library Board can issue a waiver to this requirement on application from the local library.

15 Circuit Court Fee Collection--current law requires that circuit court clerks assess and collect a \$10 fee per transaction that is then remitted to the supreme court. The circuit clerk must also purchase equipment and supplies from the supreme court. It is unequitable to require the circuit court clerks to collect fees for the supreme court then charge the clerks for supplies and equipment they are legally obligated to purchase from the supreme court.	a portion of the fees collect should be retained by the circuit court clerks to assist in paying for purchases from the supreme court.	§ 17.1-502
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SUPCT Retain

Description**Possible Solution****Reference**

The \$10 fee that the General Assembly has allocated to the Supreme Court of Virginia (Supreme Court) is essential to support statewide information technology systems, including the two major systems -- the Financial Management System (FMS), which is used by all 120 circuit courts,¹ and the Case Management System (CMS), which is used by 117 of 120 circuit courts. By statute, the Executive Secretary is the administrator of the circuit court system and is required to provide and maintain these two statewide systems as well as "related technology improvements." See Va. Code § 17.1-502. The suggested "possible solution" currently set forth in the mandates chart that a portion of the fees collected for the Courts Technology Fund instead be transferred to individual circuit court clerks (who happen to collect the fees) is not consistent with the overall funding sources for clerks' technology. Nor is the suggested "possible solution" in the best interest of the Commonwealth or the Judicial Branch. It will not save money. Instead, it would reduce funding for the statewide information technology systems maintained and developed by the Judicial Branch by transferring additional fees to individual circuit court clerks in varying amounts depending on how much they collect. Circuit court clerks already collect a fee to pay for their particular information technology needs. See Va. Code § 17.1-279 ("Additional fee to be assessed by circuit court clerks for information technology."). In fact, circuit court clerks currently have two separate funding sources to pay for new systems and their maintenance: the Technology Trust Fund and the Remote Access Subscriber Fee.

Regarding equipment, the mandates summary incorrectly states, "The circuit clerk must also purchase equipment and supplies from the supreme court." Although the Auditor of Public Accounts has recommended that the General Assembly clarify that the Supreme Court has overall authority for all clerk and court information systems,² we are not aware of a specific requirement that the clerk purchase equipment and supplies from the Supreme Court and suggest clarification and further documentation is needed on this point. Virginia Code § 15.2-1656 provides that localities are responsible for furnishing supplies and equipment to clerks of courts of record. See also Va. Code § 17.1-279 (H) ("Nothing in this section shall be construed to diminish the duty of local governing bodies to furnish supplies and equipment to the clerks of the circuit courts pursuant to § 15.2-1656. Revenue raised as a result of this section shall in no way supplant current funding to circuit court clerks' offices by local governing bodies."). When clerks are asked to contribute to the cost of personal computer equipment provided by the Supreme Court, their contribution accounts for less than 50% of the actual cost and this is paid for by fees collected pursuant to § 17.1-279. Additionally, most equipment and services are provided free of charge. For example, software licensing agreements, annual hardware maintenance, software for PCs and mainframe computers, disk storage, telecommunications equipment, telecommunications line charges, are all provided without charge. The Supreme Court also "backs up" all data nightly and provides secure, off-site storage, again without charge to the clerks.

Civil filing fees paid by litigants in circuit court are apportioned to support many essential functions. See Va. Code § 17.1-275. The ten dollars (\$10) for the Courts Technology Fund is a small part of the total filing fee collected by the clerks. ³ However, the Judicial Branch uses this funding to maintain and develop the key technology systems used to support circuit courts statewide, which are provided to clerks at no cost, including the statewide e-filing system in development.

As noted in the APA Report in 2006, the Supreme Court has two primary computer systems used throughout the Commonwealth: the Financial Management System (FMS) and the Case Management System (CMS). Supreme Court staff created both systems in 1986 using mainframe technology and subsequently implemented the systems in a majority of circuit courts beginning that same year. "Circuit courts can elect to use these Supreme Court systems, purchase one from another vendor, or develop them in-house." See 2006 APA Report. The Supreme Court recently completed a major upgrade of the Circuit Court Case Management System, which included the development and implementation of a new browser-based front end. Written in Java, this new application leverages the latest technologies, standards, and software development practices. These critical improvements were made possible at no cost to clerks by the use of Courts Technology Fund money. The Courts Technology Fund is also being used to make similar upgrades to the statewide Financial Management System. Data for both CMS and FMS was also converted to IBM's DB2 relational database using Courts Technology Fund money. Additional upgrades made using the Courts Technology Fund have included design changes and added functionality. As the Auditor noted, these changes have brought the statewide computer systems to a more modern and easier to use platform. These systems, used in virtually all circuit courts,⁴ are provided at no cost to the clerks. The Supreme Court relies on the Courts Technology Fund to support the development, enhancement, and maintenance of these systems. Again as the APA Report notes, the Supreme Court created a Records Management System (RMS) in 1991. Prior to 1991 several circuit court clerks tried to purchase a records management system for their courts but found it very costly and, with their limited budget, not feasible. Circuit court clerks requested the Supreme Court to assist them by building a system that the courts could use and pay for through a service fee. The Supreme Court agreed, and created RMS. More than half of the circuit courts are using the Supreme Court's RMS system. The clerks that do use the Supreme Court's RMS system use the clerks' technology trust fund money to reimburse the Court for its costs and for maintenance fees. Va. Code § 17.1-279 provides:

A. In addition to the fees otherwise authorized by this chapter, the clerk of each circuit court shall assess a \$5 fee, known as the "Technology Trust Fund Fee," in each civil action, upon each instrument to be recorded in the deed books, and upon each judgment to be docketed in the judgment lien docket book. Such fee shall be deposited by the State Treasurer into a trust fund. The State Treasurer shall maintain a record of such deposits.

B. Four dollars of every \$5 fee shall be allocated by the Compensation Board from the trust fund for the purposes of: (i) developing and updating individual land records automation plans for individual circuit court clerks' offices; (ii) implementing automation plans to modernize land records in individual circuit court clerks' offices and provide secure remote access to land records throughout the Commonwealth pursuant to § 17.1-294; (iii) obtaining and updating office automation and information technology equipment including software and conversion services; (iv) preserving, maintaining and enhancing court records, including, but not limited to, the costs of repairs, maintenance, land records, consulting services, service contracts, redaction of social security numbers from land records, and system replacements or upgrades; and (v) improving public access to court

Description	Possible Solution	Reference
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records. ...Va. Code § 17.1-279 A and B. In order to provide increased support to circuit courts during the ongoing budget crisis, the Supreme Court has not increased the annual maintenance contract fees that it charges clerks for RMS for the last 4 fiscal years; instead, the Supreme Court has been absorbing these increased costs. For the reasons stated above, it is recommended that Task Force reject the suggestion to transfer any part to the Courts Technology Fund to circuit court clerks. Transferring a portion of the Courts Technology Fund Fee collected by circuit court clerks directly to the clerks will hinder the Supreme Court's ability to continue to support, maintain and upgrade the statewide computer systems it provides to the circuit clerks at no charge.

16 Comprehensive Animal Care Laws--state code outlines extensive administrative requirements for animal care, licensing, fees, etc. This is a local issue and is best left to local governments.	Eliminate, or allow for more local control.	SOA.VDACS002, 004, 008, 009, & 010; Title I, Ch. 65
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VDACS Retain

Rabies Vaccination Reporting

Section 3.2-6529 of the Code of Virginia, Veterinarians to provide treasurer with rabies certificate information; civil penalty.

VDACS concurs that Virginia's local governments are best placed to determine the merits of retaining this mandate. This mandate was established in 2007 with the intent of increasing compliance with dog licensing requirements. It requires that veterinarians forward information regarding each dog vaccinated against rabies to the local treasurer of the jurisdiction in which they practice, and that treasurers take actions to ensure the licensure of such dogs including forwarding information to other jurisdictions if the owner of the dog resides elsewhere.

VDACS defers to local governments to determine if the costs of compliance with this mandate exceed the benefits realized.

Provision of Veterinary Care to Impounded Animals

Section 3.2-6546 of the Code of Virginia, County or city pounds; confinement anti disposition of animals; affiliation with foster care providers; penalties; injunctive relief and Section 3.2-6503 of the Code of Virginia, Care of companion animals by owner; penalty.

These statutory mandates require the impoundment of companion animals by local governments under certain circumstances, and the provision of adequate care including veterinary treatment when needed to impounded animals. Impounded animals (other than those surrendered by their rightful owner) are subject to a holding period to allow their rightful owner the opportunity to claim them. During this holding period, veterinary treatment must be provided in order to prevent suffering or disease transmission. Section 3.2-6546 does allow euthanasia in lieu of veterinary treatment within the holding period if an animal is critically ill or injured. It is not clear to VDACS if the commenting local government is suggesting that the statutorily mandated holding period be waived for animals not critically ill or injured but nonetheless requiring veterinary treatment to allow for early euthanasia, or that the holding period be maintained but no veterinary treatment provided. VDACS does not feel that either approach would best serve the citizens of the Commonwealth. It is generally not possible to conclusively determine that an animal is un-owned or otherwise not likely to be claimed when first impounded, and therefore removing the requirement of veterinary care either through early euthanasia or allowing an animal to suffer or transmit disease to other impounded animals will result in situations that fail to protect the property rights and bonds of affection that citizens have in and for their companion animals.

Inspection of Commercial Dog Breeding Facilities by Animal Control Officers for Compliance with State Regulations

Section 3.2-6555 of the Code of Virginia, Position of animal control officer created.

This mandate requires that animal control officers inspect each commercial dog breeding facility as defined by statute at least twice annually to ensure compliance with state animal care laws and regulations. The intent of this mandate is to ensure compliance with statutory animal care, recordkeeping, and population limits established by the 2008 Session of the General Assembly. The Board of Agriculture and Consumer Services has to date not enacted any regulations concerning commercial dog breeding facilities. Animal control officers are

Description	Possible Solution	Reference
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therefore only responsible for ensuring compliance with the Code of Virginia, and not ensuring compliance with any provisions of the Virginia Administrative Code promulgated by this or any other state agency.

17 VITA Health Department--current code requires that health departments paid by the cooperative budget utilize IT services provided by VITA. VITA recently outsourced their IT services to Northrop Grumman and the costs have risen significantly.	Modify mandate to allow the local health departments to determine which IT service is best for them.	TBD
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VDH Information Only

1. This creates a potential security risk in that most outside vendors providing IT services are not covered by HIPAA or the Commonwealth's Security policy. This could put citizen health data at risk.
2. Should local health districts opt to not use VITA, all IT hardware would have to be returned to Northrop Grumman. The health district would then have to incur the cost of buying all new hardware and paying for its installation as well as the cost of new software licenses and wiring of their buildings.
3. Local Health Districts do not currently have the technical expertise to handle infrastructure services on their own.
4. This places the VDH Central Office and local health districts on different IT platforms should LHD's purchase services outside VITA. This could potentially create a compatibility issue between the central office applications and those used by the local health districts.
5. No study has been done to document that the cost to a health district would be less than they are currently paying VITA. It is not an accurate comparison to consider current costs and pre-VITA costs because substantial costs were underwritten by the central office prior to VITA.
6. In a public health emergency, lack of compatibility and full access to COVA enterprise communications and automated systems could compromise the public health response.
7. Fixed agency VITA costs that are currently spread among work units may rise for those that remain in VITA when others drop out.

VITA Information Only

VITA would like to highlight three issues related to the following possible solution: "Modify mandate to allow the local health departments to determine which IT service is best for them."

- (1) Use of IT services from vendors other than VITA would create security risks to citizen health care data. VITA/NG pro-actively manages the security of CoVA's IT infrastructure 24x7x368 to prevent unauthorized access to networks and citizen data.
- (2) The current integrated IT environment that places the VDH Central Office, local health districts, and the rest the executive branch on the same network provides operational benefits and efficiencies that will be lost if the local health districts are on a separate network.
- (3) Under the contract with Northrop Grumman, removal of the local health districts would not result in a net cost reduction for the Commonwealth. Instead, it would lead to the remaining agencies paying incrementally more for the same service.

18 Six Year Secondary Improvement Plan--current code requires that local governments publish a 6 year plan that outlines secondary road improvements. This is unnecessary when there is no funding for these planned improvements.	Eliminate.	STO.VDOT023
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VDOT Eliminate

Description	Possible Solution	Reference
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If there is no additional funding, any reallocation of funding, or any change in the projects included, there may be merit in not requiring a posting and public hearing. However, this would likely require a statutory change.

19 Watch for Children Signs--current code does not allow for local governments to install these signs. This is akin to parking enforcement signs that local governments are allowed to install under a blanket permit.	Eliminate this code and allow for these signs to be installed under a similar blanket permit used for parking enforcement signs.	33.1-210.2
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Recommendation adopted. (HB914)

VDOT Retain

As long as signs are in the VDOT system and VDOT is responsible for maintaining those signs, VDOT should control the manner, method, and location of all such signing. There are a number of traffic engineering issues involved in placing signs. If local governments were given authority with regard to sign placement, they should follow the same standards, warrants, and requirements that VDOT follows in determining whether a sign should be placed and its location.

20 Bike and pedestrian trail storm water regulations--current code requires that bike or pedestrian trails which are constructed on a roadway that was previously exempted from storm water runoff regulations contain implementation for storm water runoff regulations for the entire roadway. This is over burdensome and cost prohibitive. This has resulted in many bike and pedestrian trails not being constructed.	Eliminate.	TBD
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VDOT Information Only

VDOT does not hold an opinion on this recommendation and believes it is an issue for the Department of Conservation and Recreation.

DCR

The discussion for this mandate suggested that "current code requires that bike or pedestrian trails which are constructed on a roadway that was previously exempted from storm water runoff regulations contain implementation for storm water runoff regulations for the entire roadway". DCR's rules do not require this. Stormwater management would be needed for the new levels of imperviousness and the project would also be subject to erosion and sediment control requirements, but it is not necessary for stormwater controls to be put in place "for the entire roadway".

Appendix 4: Education Mandates Recommended for Further Study

1 Special Education Mandates. The state requirements exceed the Federal IDEA Act in over 175 areas.	Study the requirements further prior to recommending specific items to eliminate.	8 VAC 20-131-70 and 8 VAC 20-81-10, et seq.
2 Testing and Assessment Requirements.	Study the requirements further prior to recommending specific items to eliminate.	SOE.DOE059

Note: References listed in this format: SSS.DDD123 are from the Catalog of State and Federal Mandates on Local Governments.