



Chesterfield County, Virginia

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November 4, 2011

The Governor's Task Force for Local
Government Mandate Review
c/o Ms. Susan Williams
Local Government Policy Manager
Dept. of Housing and Community Development
Main Street Centre
600 East Main St. Suite 300
Richmond, Va. 23219

Dear Ms. Williams:

Chesterfield County welcomes the opportunity to comment on state and federal mandates imposed on local governments in Virginia. We applaud the Governor's awareness of the fiscal challenges local governments face as they continue to educate, protect and serve the citizens of their jurisdictions in spite of reduced state and local revenues.

The on-going uncertainty at the federal level, coupled with the financial decisions that lie ahead for the state give the county great concern. The manner in which the federal and state governments deal with resource allocation decisions will most likely impact local government's ability to deliver key services such as k-12 education, transportation, and mental health services. Elected leaders have difficult decisions ahead of them – decisions that will influence how well we recover from the ailing economy, how competitively positioned we are for new business growth and how we maintain an exceptional quality of life in our communities.

Chesterfield County managed through this period of falling revenues and made difficult choices that reduced costs, preserved critical services, implemented new ideas that reduced the cost of government and continued our focus on business and job growth in the private sector. Along the way the county reduced the size of its work force by nearly 10%. We made great strides on the economic development front that are, and will continue to pay dividends for the county, the central Virginia region, and the state. Those successes were made possible through collaborative efforts between the state and local government and the business community and we are thankful for the state's support.

Going forward, we find it extremely important for the state to avoid further actions that would adversely impact local revenue streams, such as the elimination of existing local taxing authority or the creation of mandatory tax incentives funded by local revenues. Such decisions should be

carefully considered in the midst of these challenging economic times and further deterioration in real estate tax revenues.

We would also bring to your attention the many requirements that are imposed on local governments through the regulatory process. These mandates don't necessarily show up in the Mandates catalog, but still impose real costs on local governments, nonetheless. Examples of these include design standards for facilities such as animal control shelters, jails, and courts. Depending on fiscal circumstances, localities may need the ability to build more basic facilities than those required in regulation. We would ask that the state analyze its regulatory processes in order to identify any standards imposed on local governments that exceed state funding. If the state does not fund the construction or maintenance costs of the facility, they should not dictate the construction standards.

We wish the task of identifying mandates for elimination was easy, but unfortunately, it is not. The County conducted an extensive review, county department by county department, of the items in the Mandates catalog. After excluding the mandates tied to federal law or regulations, the options to achieve significant relief at the local level are fewer than we had hoped. However, Chesterfield County does have suggestions for the Task Force and Governor McDonnell to consider. They are as follows:

Line of Duty Act

When the Line of Duty Act was passed by the General Assembly, it was a state paid benefits program for public safety personnel. Localities were told that the state would always pay the bill when localities protested about potential costs. The General Assembly expanded both the personnel covered (volunteers as well as employed) and the level of benefits (lifetime health care benefits for surviving dependents). Now that costs have risen exponentially, the program has been shifted to every local government for payment. This is the most expensive example of a new unfunded mandate in recent years. In addition, while shifting costs to local governments, the state retained authority over the administration of these benefits. Separating responsibility for administration from the costs is inappropriate. We suggest the Governor reverse this and fund the benefits in his budget.

Comprehensive Services Act

We think the Comprehensive Services Act is a program in need of serious review. The program should be subject to the Administrative Process Act so the impact of the administrative burdens of this program can be readily identified. Data collection and reporting requirements under CSA have increased significantly, but administrative funding needed to complete these tasks falls almost totally to localities. Mandates increasing local match rates for residential and foster care related services should be eliminated or returned to 2006 levels. Local governments pay a healthy portion of the state's Medicaid match for certain youth in this program. In other service areas, the state pays the Medicaid match and should do so for this program as well.

Community Services Boards

Eliminate the requirement for an annual performance contract with the state Department of Behavioral Health and Developmental Services. This is a bureaucratic exercise that adds limited value for citizens served.

Local Landfill Closures

Relax the ongoing reporting and monitoring requirements for closed landfills. The Department of Environmental Quality should, on a case by case basis, relax the post closure requirements when no problems have been identified for three or more years.

Storm-water/TMDL

Local governments subject to the Chesapeake Bay Preservation Act are required to review soil and water runoff control and water quality assessments prepared by all agricultural operations within their jurisdiction, and to take enforcement action when necessary. This function should be the responsibility of either the Virginia Department of Conservation and Recreation or the Virginia Department of Agriculture.

The calculation of Total Maximum Daily Loads for the Chesapeake Bay watershed is required under the federal Clean Water Act. At the state level, there is no funding available to implement the Chesapeake Bay TMDL's, and we believe localities will be forced to create storm-water utilities to cover the costs of complying with this mandate. We believe the mandate should not be implemented without appropriate state funding.

The Department of Conservation and Recreation currently administers the Virginia Storm-water Management Permit program (VSMP) for construction activities. This program is due to be turned over to localities in 2014. While the state has a permit fee structure to cover their costs, and localities will be able to charge a fee, our analysis shows that the permit fee structure will not be sufficient to cover local implementation costs. This program should remain a state responsibility.

The Virginia Public Procurement Act (VPPA)

In Public Procurement consider the following for elimination:

Section 2.2-4301 2. - Public Notice of Requests for Proposals in a newspaper of general circulation. This is an antiquated and expensive requirement. It is more cost effective to post these online.

Section 2.2-4301 3.a. - Procurement of professional services requires ranking of offerors and negotiation beginning with the offeror ranked first. If no agreement can be reached, negotiations with the offeror ranked first are formally terminated and negotiations conducted with the offeror ranked second, and so on, until an agreement is reached.

This practice is not consistent with what the VPPA allows in the competitive negotiation process for goods and nonprofessional services. That process allows for concurrent negotiations with the top ranked offerors, which enhances the public body's ability to obtain a better result for the taxpayers.

Section 2.2-4303 C - Requirement to document in writing that competitive sealed bidding is either not practicable or not fiscally advantageous in order to use competitive negotiation for the purchase of goods or nonprofessional services. If you choose the wrong procurement method, having this documentation on file does little to enhance the accountability of the procurement.

Section 2.2-4303 G. - Requirement for written informal solicitation of a minimum of four bidders or offerors and posting of a public notice for purchases expected to exceed \$30,000. The Act allows public bodies to adopt their own written purchasing procedures providing for

competition wherever practicable for goods and nonprofessional services not expected to exceed \$100,000. Having the above requirement for anything over \$30,000 negates the flexibility of writing our own rules.

Section 2.2-4343 12. - Formal procurement of professional services expected to exceed \$50,000. All other formal procurement (goods and nonprofessional services) has a threshold of \$100,000. All classifications of procurement should be at a consistent dollar threshold. This was true until changed by the General Assembly last year.

Clerk of Circuit Court

Circuit Court Clerks' Technology Trust Funds were intended to be non-reverting funds to pay for automation needs in Clerks' offices. The funds have been used for other purposes in recent years and this practice should cease. Only by continuing to automate and use technology will clerks' offices be able to handle increasing workload demands.

Circuit Court Clerks are required to collect a \$10 fee per transaction on behalf of, and remitted to, the Supreme Court of Virginia. The Clerks are then required to purchase various services and equipment from the Supreme Court. A portion of the monies from the \$10 fee should be retained by clerks to pay for the required purchases from the Supreme Court.

Clerks' offices have been mandated to collect restitution when the court orders defendants to pay restitution. This places an additional burden on staff time in clerk's offices, particularly when staffing and other resources have been reduced. This function should be transferred to the Criminal Injuries Compensation Fund which is already structured to handle restitution.

Civil juror costs are currently borne completely by the locality. Since civil matters are between private individuals, there is no reason for this cost to be borne by local taxpayers. If the parties have elected to have a jury versus a judge render the decision, the disputing parties should bear the cost themselves. Alternatively, civil jury costs could be paid by the Supreme Court, as they are in criminal cases.

Remove the caps on fees charged by clerks to provide secure remote access to court case files, land records and images. The automation for this service is provided by local funds and clerks' offices should be able to cover the costs incurred to provide the service.

Fire

The Fire Department and Fire Marshall of Chesterfield County recommend that the mandate to adopt the newest edition of the International Code Council Codes until the 2015 edition is available be postponed. The rationale is that no significant changes to the 2012 editions of the building and fire codes were adopted, so purchase of the new code editions could reasonably be delayed.

Transportation

The VDOT revenue-sharing program should become a grant program with no administrative interference or deduction of VDOT administrative costs from the funding. Localities should certify compliance with all appropriate regulations and policies when the projects are completed.

Education

Chesterfield County Public Schools supports allowing maximum discretion and flexibility in developing strategies for budget decisions that will then reflect the diverse needs of school divisions. An integral part of this discretion is the school division's opposition to any new statutory or regulatory requirements that are not fully funded.

Specific areas for consideration include:

- Full funding of SOQ re-benchmarking (including funding for prevailing instructional support staffing levels)
- Realistic funding recovery strategy for the VRS teacher pool
- Suspend the required local match for Class Size Reduction Initiative and VPSA Technology Initiative
- Flexibility to use SOQ algebra readiness for any instructional support
- Flexibility to use preschool initiative funding
- Full pass through of any potential federal Jobs Bill funding

Federal Mandates

We would also encourage the Governor to pursue whatever relief is possible from the federal government for the mandates they impose on the states.

Local Land Use Authority

As we reviewed the Mandates with no state agency oversight, a number of items dealing with local land use authority are included. We believe these mandated requirements, such as cluster zoning, urban development area designations, and by-right temporary family healthcare structures, are better determined at the local level with appropriate local input and not by mandate.

Elimination of these required provisions in comprehensive plans and zoning ordinances does not produce revenues, but keeps responsibilities for land use local which is a guiding principle of the Chesterfield County Board of Supervisors.

Avoid Future Restrictions on Local Revenue Sources

We also request the Task Force consider recommending to the Governor that he veto the following legislation if it emerges from the General Assembly in 2012:

Any legislation eliminating or restricting the local Machinery and Tools Tax or the Business Professional, Occupation License Tax (BPOL). Not only is machinery and tools a significant local revenue source, it is also a tool used by economic development to provide incentives for new business to locate in the county and bring new jobs to Virginia. Chesterfield reformed its BPOL tax over a decade ago and capped the revenue from it, while lowering the rates paid by business. This was coupled with a true exemption for small business--no business in the county pays any BPOL tax until they gross over \$200,000. We also used BPOL revenue (at the request of our business community) to pay debt service on bonds to build the Meadowville Interchange. The investment could not have occurred without the ability to service the debt using BPOL revenues.

Any legislation shifting responsibility for secondary roads onto counties. Counties like Chesterfield are very aware that the state would not consider giving up authority for these roads

November 4, 2011

Page 6 of 6

unless the funding situation was desperate. Not only do we not have funds to handle the on-going maintenance, the roads themselves are in deteriorated condition and the funds needed to bring them up to acceptable standards is extremely high.

Do not allow a "grab" of court fines. The Auditor of Public Accounts did a study (released in September 2011) about court fines written under local ordinances, rather than state ordinances. This common Police practice allows locals to retain those funds and partially offset the costs of providing public safety in the community. The APA conclusion seemed to indicate that those funds were there for the state to redirect. Any effort along these lines would again place additional pressure on local real estate tax rates and have unintended consequences.

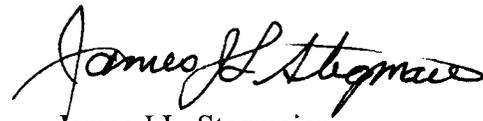
Reverse Cost Shifting

Lastly, we ask the Task Force and the Governor to consider reversing several major cost shifts from recent years. We identified the Line of Duty Act earlier in this letter and those comments apply here as well. In the state budget, Local Aid to the Commonwealth should be reversed as soon as possible. This \$60 million per year is a strict cost shift with no responsibility for providing services relieved by it. Another state enacted benefit, the teacher retiree health care credit, caused concern for localities when it was enacted. The state assured localities that this state program would be funded by the state. Less than a decade later, costs were shifted onto localities, creating long term liabilities that are very costly. One of the most helpful things Governor McDonnell could do is insure that no more of these shifts get approved. In particular, the Governor must insure the Commonwealth does not enter into commitments to employees that create long term unfunded liabilities.

In conclusion, we appreciate the complexity of the effort to provide relief to local governments. The real issue however, is identification of adequate funding, coupled with a serious look at program offerings and needed cost containment so that localities can fulfill the many expectations of our communities. Chesterfield County has been, and will continue to be, good stewards of the public's tax dollars. Our best recommendation to the Governor would be to ensure that local government finances do not get worse--either by more cost shifts, more responsibilities without funding, or by reducing local decision-making in any way.

If you need additional information or have questions, please contact Mary Ann Curtin of my office at 748-1486.

Sincerely,



James J.L. Stegmaier
County Administrator

C: The Honorable Robert F. McDonnell, Governor of Virginia
Honorable Members, Board of Supervisors
Honorable Members, Chesterfield Legislative Delegation