

THE CITY OF  
**PORTSMOUTH**

October 21, 2011

The Honorable Robert McDonnell  
Governor  
Third Floor-State Capitol  
1111 East Broad Street  
Richmond, VA 23218

RE: Governor's Task Force for Local Government Mandate Review

Dear Governor McDonnell:

Thank you for the opportunity to weigh in on the elimination or relaxation of overly burdensome or unnecessary local government mandates; and also the ability to submit recommendations for appropriate changes to others.

In querying our Department Heads and various divisions within the Portsmouth City government, several issues were identified. We realize that combined with other suggestions you will receive statewide, the combined list will be extensive and may seem a bit daunting. However, addressing these issues is extremely important and sorely needed, especially in this tight economy.

We certainly appreciate any and all considerations your Administration can provide to relieve some of the external and internal stresses we are experiencing from these types of mandates due to the loss of revenue from all levels of government.

Our suggestions for items to be considered for eliminating, relaxing or amending are listed in the accompanying attachment in no particular order of importance. If any further information or clarification is needed on these items, we stand ready to provide that for you. Again, we thank you for this opportunity.

Sincerely,



Kenneth L. Chandler  
City Manager

KLC\sn

Attachment

cc: The Honorable Members of Portsmouth General Assembly Delegation  
The Honorable Mayor and Members of Portsmouth City Council

**Office of the City Manager**

801 Crawford Street • Portsmouth, VA 23704-3822 • Phone 757-393-8718  
(757) 393-8641 Office • (757) 393-5241 Fax

*The following items were identified as being "overly burdensome" administratively and financially on the City of Portsmouth:*

### **I. Finance Department**

1. ***Restoration of the \$60 million cut in State Aid to Localities.*** The City of Portsmouth has lost over \$5 million in State revenue support for programs and services that the City is mandated by the State to implement.
2. ***Do not implement any VDOT proposal to reduce road maintenance payments for cities and towns.*** This move, if implemented it would represent more than a \$2 million hit to the City of Portsmouth

### **II. Human Resource Management:**

1. Should Plan 1 members under VRS be required to contribute their own 5% member contribution (like Plan 2 members are currently requested to do) and the locality has to give a 5% or ***any percentage raise to offset the additional cost to the employees; this would present a financial burden to the City.***
2. ***Transferring the cost of benefits under the Line of Duty Act from the State to localities for public safety employees who are injured or die in the line of duty, which now includes paid employees and volunteers presents an undue financial burden on the City.***
3. The current time period to respond without an extension to requests under the Virginia Freedom of Information Act (FOIA) being only 5 workdays is difficult to meet when a locality is trying to ensure accurate information is provided while handling its normal course of business and demands. ***This mandate should be amended to allow for more time to respond to these requests prior to requesting an extension.***

### **III. Library Department**

In reviewing mandates that are overly burdensome, fiscally and administratively, maintaining the current requirements for the following six (6) items are of concern to the operation of the City's library services:

1. ***Maintaining*** the requirement that a Library Director must be State certified.
2. ***Maintaining*** current requirements for Library Operations Standards.
3. ***Maintaining*** current requirements for Planning and Development Standards for Public Library Services.
4. ***Maintaining*** the requirements currently in place of the Virginia Public Records Act.

5. ***Maintaining*** the requirements currently in place for Library Acceptance Internet Use Policy.

6. ***Maintaining*** the mandates allowing local governments to choose to operate libraries in another way divorced from State aid.

Items #2 and #3 are directly tied to State Aid to Public Libraries for which in FY 11 Portsmouth received \$152,856. Any absence of these items would have the potential to significantly impact the quality of services provided to our citizens. Furthermore, eroding these requirements would impact the kind of person responsible for the department, the standards set for libraries and ensuring the safe use of the Internet. A decline in the quality of service that is provided to the citizens will diminish the City's goal of providing lifelong learning opportunities, which in turn generates a thriving community. Furthermore, loss of these two items would equate to a negative financial impact on the City because local libraries must meet State requirements for personnel, materials and operating procedures. Local governments are also mandated to follow the standards set by the State Library Board. Therefore, ***any loss of State revenue for these items that should not be relaxed nor eliminated will only serve to further financially burden localities adding to the list of unfunded State mandates.***

#### **IV. Planning Department:**

The following three (3) items are deemed to be overly burdensome and should be eliminated:

1. ***Eliminate the VDOT "527" plan review and traffic impact statement process***  
(Reference Virginia State Code Section 15.2-2222)

2. ***Eliminate the requirement to notify all property owners individually by mail anytime a change in the zoning ordinance affects 25 or more parcels.***  
(Reference: Virginia State Code Section 15.2-2204)

3. ***Eliminate the requirement that "by-right" subdivisions be reviewed by the Planning Commission*** (Reference: Virginia State Code Section 15.2-2259).

#### **V. Portsmouth Department of Social Services:**

##### **1. HB 1661 – Disposition of dead bodies; how expenses paid:**

Although this mandate may not represent huge expenditures for local governments; at this time due to the state of the economy, every dollar counts. ***Therefore, the Department recommends that this unfunded mandate should be relaxed until such time as the economy recovers.***

##### **2. HB 2037 – Title Protection for term of "Social Worker":**

Statewide, Local Departments of Social Services (LDSS) have taken the position that protection of the words "Social Worker" will impose great hardships, both financially and logistically in operating professional social services agencies which provide services to the public and in particular the vulnerable population. The law as passed in 2011 provides an exception for federally required and defined social workers in nursing homes and hospices, but it does not provide an exception for LDSS. *This additional cost factor will not be funded by the State and therefore will become another unfunded revenue draining mandate on local governments. Therefore this exemption should be extended to LDSS as well.*

### **3. Restoration of Local Social Services Administrative Funds-budget reductions, underfunding and unfunded mandates:**

The economic recession has had a definite impact on the rapidly escalating case loads for Local Departments of Social Services (LDSS). Many have seen increases ranging from 20-50%, but simultaneously we are dealing with budget and hiring freezes, staff reductions, and budget reductions. The budget reductions being experienced by LDSS are from all levels of government; local, state and federal. The net effect of this confluence of events has not only taxed our dwindling resources, but has also had a profound effect on dedicated and hard working frontline staff and managers. Although all divisions, departments and agencies of the Commonwealth have been hit with funding and staff reductions, the LDSS have been placed in a financial vice-grip through the aforementioned financial losses and the increased request for services from the citizens of the Commonwealth. Commissioner Martin D. Brown for the Virginia Department of Social Services (VDSS) recently appealed to the Senate Finance Subcommittee for Health and Human Services to restore the Fiscal Year 2012 five percent (5%) administrative reduction. *The restoration of these funds would be greatly appreciated along with holding LDSS exempt from any further reductions for the duration of this economic recovery; and receiving emergency relief in the terms of additional dollars to provide for the needs of the needy citizens of the Commonwealth of Virginia.*

### **4. Comprehensive Services Act (CSA)**

- *Make the CSA program subject to the Administrative Process Act:* Local governments pay more than 80% of the administrative costs of this "shared" program. The state share of the administrative costs has not been increased in more than a decade. At the same time, the administrative burdens on local governments has increased in data collection and reporting requirements.
- *Return local CSA service rates to the FY 2006 level:* The Commonwealth has increased mandatory local participation percentages for the provision of services funded through the Comprehensive Services Act. *Mandates increasing local rates for residential and foster care related services should be abolished and returned to the FY2006 level.*

- ***Increase state match for certain your programs in CSA:*** Local governments pay a healthy portion of the state's Medicaid match for certain youth in this program. The portion paid by local governments has increased over the life of this program, which began in the early 1990s. ***The state pays the Medicaid match for other service areas and should do so for this program as well.***
- ***Establish financial incentives for local governments that foster regional contracting for provider services:*** Local governments who participate in regional contracts should provide local fund match at the lowest rate of the participating local governments. ***Although regional contracts may work well for rural and small localities, they will not work for larger cities and counties and there is no cost advantage to be recognized.***

## **VI. Public Safety – Portsmouth Police Department**

Two areas of concern were listed by the City's Police Department. Both of the mandates discussed are deemed overly burdensome and carry with them financial stress:

1. ***Records Retention and Disposal*** – Although we recognize the burdensomeness of it, understand why, see no hope that any fundamental or transformative change can happen because of law enforcement centric requirements through the governing agency for records and retention schedules (State Libraries Department) and therefore are willing to live with it; it still should be acknowledged that ***this mandate is overly complicated and not intuitive.*** Full compliance would be a daunting task for any agency that generates a huge amount of records, such as a police department. ***The rules for compliance, retention and disposal are prohibitive and run contrary to the need to retain old record the police department would like to keep such as old records and case files.*** The mandate as currently constructed also covers electronic records in the police department's possession. ***Due to the large amount of traditional electronic files, electronic and social media generated daily, it would take a several full time people to manage this task which includes: cataloging, ordering, archiving, destroying and documenting disposals.*** Full compliance is time consuming and extremely expensive in terms of managing this medium and ensuring proper disposal and destruction of records.

2. ***Freedom of Information Act (FOIA)*** – ***This mandate through the Code of Virginia creates more temporal hardship on an agency than many other mandates due to the short turn-around time (5 business days) to research, evaluate, prepare and deliver a written response to every request for information or records.*** This requirement covers information verbal and written, whether or not the information invokes this Act or not; and whether they ask the Chief of Police or an evidence technician in Property and Evidence Department. The sheer volume of the requests received by the Police Department, coupled with the rapid response time mandated by the Code of Virginia makes this a very onerous and overly burdensome requirement. To adequately comply in the time required to these requests would take hiring two full time employees which is an

added expense to cash strapped local governments such as Portsmouth. *It would be extremely helpful if this mandate were revised to provide for a flat 15-day response period similar to that of required for subpoenas (unless the court grants an extension or the requestor releases us from the deadline) rather than the current 5-day, plus 7-day extension requirement.*

## **VII. Portsmouth Public Schools**

Currently, Virginia's Administrative Code 8VAC20-81 requires public schools to serve children with disabilities from ages 2-21. Children with disabilities, age 0-3, are also served in Virginia by the Infant and Toddler Connection of Virginia. *This mandate results in duplicative services. It would be more efficient and cost effective if services required by public schools were aligned with IDEA Part B (Federal law) which would require 8VAC20-81 to be changed to ages 3-21.*

## **VIII. Treasurer's Office – Constitutional Officers Offices**

The Commonwealth of Virginia's Compensation Board requests submission of annual Workload Measures applicable to the Treasurer's Office. Based on these statistics, the Compensation Board determines the number of authorized positions allocated to Portsmouth. During the Warner Administration the Compensation Board eliminated the funding for two positions that were authorized. This past year, the Compensation Board eliminated the funding for four more authorized positions. All eliminations directed by the Budget process and the General Assembly's failure to fully fund the Treasurers.

*A total of six Compensation Board positions were authorized, based on the Workload Measurements for the Portsmouth Treasurer's Office remain unfunded by the Commonwealth. Therefore, it is requested of the governor to restore funding for these positions. The total cost for these positions in Portsmouth is \$172,721. The Commonwealth's 50% share of these salaries equals \$86,361. This amount represents the extra cost to the City, and does not include the shared expense for employee benefits.*

*Also, please note that the Constitutional Officer employees in the Treasurer's Office statewide have not received a salary increase in four years paralleling that of those classified as State employees. Along with that disparity the employees of the Treasurer's Office are not exactly mirroring State employees. When State employees were made to take a furlough day, our employees were included but, they did not get to participate in any "bonus" pay that was given to State employees that same year.*