



City of Virginia Beach

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November 16, 2011

Council Member Robert M. Dyer
1668 Lake Christopher Drive
Virginia Beach, VA 23464

Subject: Unfunded and Underfunded Mandates

Dear Council Member Dyer:

Please find attached information collected by City staff dealing with unfunded and underfunded mandates. As you can see, the Commonwealth creating unfunded mandates creates quite a strain on the fiscal capability of the City. Perhaps, equally as important is the underfunding of activities that the City must fund because of state mandates and real needs.

The state often times considers these to be local initiatives. For instance, the City spends \$204.4 million above the match required by the Commonwealth to achieve the mandated standards of quality (SOQ). This amount equates to approximately 41 cents on the City's real estate tax rate. The General Assembly considers these "local aspirations" while we consider it to be preparing our children to compete in the worldwide economy.

In order to not be repetitive, I have only sent issues identified by City staff that have not previously been posted to the Mandate Commission's website. We also endorse the positions of the Virginia Municipal League (VML), Virginia Association of Counties (VACo), and others who presented at your November 7th meeting.

I hope this information is helpful to you in your role on the Governor's Task Force for Local Government Mandate. Please contact us if I can provide anything further.

With Pride in Our City,

James K. Spore
City Manager

JKS/RRM/tdr

Attachment

cc: Dave Hansen, Deputy City Manager
Robert Matthias, Assistant to the City Manager
Catheryn Whitesell, Director, Management Services
Susan Williams, Virginia Department of Housing and Community Development

Virginia Beach

Issue of Repealing and/or Funding State Mandates

Title: Protective Orders

Description: A legislative change significantly increases the number of offenses that are subject to the restrictions of a protective order. Incidents under the previous legislation were limited assault or stalking between family members or intimate partners; however, the new legislation expands the authority of a protective order to include any act of violence, force or threat regardless of the relationship of the parties involved. Since this legislation became effective, Emergency Protective Orders have increased by 112%. There is a debate regarding the value and impact of this legislative change.

State Code Requiring Mandate: 19.2-152

Estimated Annual Impact: \$150,000 (approximate)

Title: Line of Duty Credit

Description: State Code Requiring Mandate: The Line-of-Duty Health Care pays for health care for sworn-job related disability retirees (and qualified dependents), who are considered disabled in the line of duty; this payment for health care includes Medicare Gap coverage beyond the age of 65. Beginning in FY 12, the General Assembly shifted this cost to localities.

State Code Requiring Mandate: 2011 Acts of the General Assembly, Chapter 890, Item 258

Estimated Annual Impact: \$621,00 in FY 13 rising to \$1.1 million in FY 15

Title: Reporting of Vehicular Accidents to the Department of Motor Vehicles (DMV)

Description: DMV requires local police departments to submit accident reports electronically using their system called Traffic Records Electronic Data System (TREDS). As designed, TREDS solely benefits the DMV in that it eliminates DMV staff's data entry requirements, but places requirements on local police departments to implement changes to their Records Management Systems and/or processes involving handling and submission of accident reports. Virginia Beach implemented TREDS in 2011 but not without significant staff resources. The implemented process for TREDS in Virginia Beach is cumbersome for the officers submitting the reports and provides no benefit to the Police Department. DMV should be required to provide police agencies funding to implement TREDS, remove the requirement for online reporting, or demonstrate direct benefits to local police agencies by providing timely analysis capabilities and timely accident reports to the public thus relieving the local agencies' need to maintain their own accident report databases.

State Code Requiring Mandate: DMV Staff were unable to provide.

Estimated Annual Impact: \$100,000 (approximate)

Title: Child Welfare Services

Description: The State severely underfunds Child Protective Services, Foster Care, and Adoptions. The Code of Virginia, 63.2-401, authorizes the State Board to determine the amount of reimbursement, not less than 50%. The State Board has established a reimbursement rate of 84.5%; however, current State appropriations are covering only 58% of the cost of these programs.

State Code Requiring Mandate: 63.2-319 (specifies funding)

Estimated Annual Impact: \$4.1 million

Title: Guardianship

Description: The State requires persons incapacitated to receive guardianships. A Circuit Court judge decides whether a person is incapacitated and appoints a guardian through the City's Adult Protective Services. This court-ordered guardianship is mandated but unfunded. The total annual cost is \$70,000. Typically, the City's share of funding is 34%.

State Code Requiring Mandate: 37.1-134.6

Estimated Annual Impact: \$46,200 (66% of \$70,000)

Title: Early Intervention Program

Description: Congress enacted early intervention legislation in 1986 as an amendment to the Education of All Handicapped Children Act (1975) to ensure that all children with disabilities from birth through age three would receive appropriate early intervention services. This amendment formed Part C of the act, which was re-authorized in 1991 and renamed the Individuals with Disabilities Education Act (IDEA). Services are mandated to meet certain performance standards.

State Code Requiring Mandate: 111 Stat. 112 Public Law, 105-17

Estimated Annual Impact: \$257,000 (approximate)

Title: Community Corrections

Description: The State established these programs to provide the judicial system with sentencing alternatives for certain nonviolent offenders, who may require less than institutional custody but more than probation supervision. The State has been underfunding this program.

State Code Requiring Mandate: 9.1-173; 9.1-183; 19.2-152.2-152.7

Estimated Annual Impact: \$330,000 (approximate)

Title: Treasurer Mailing of Bills

Description: The State requires one billing of Real Estate taxes, but nearly all localities bill real estate taxes at least twice and some bill quarterly. The requirement and reimbursement of once a year billing is obsolete, and the State should reimburse localities for two billings a year.

State Code Requiring Mandate: 58.1-3912

Estimated Annual Impact: \$100,000 (approximate)

Title: State Aid to Libraries

Description: The State mandates various services for libraries (State Certified Librarian, Library Operations Standards, Virginia Public Records Act, and Library Acceptable Internet Use Policy). Yet, State Aid to Libraries has been reduced by \$140,000 since FY 2001-02.

State Code Requiring Mandate: SOE.LVA001; SOE.LVA003; SOE.LVA005; SOE.LVA006

Estimated Annual Impact: \$140,000 (approximate)

Title: Uniform Disposition of Unclaimed Property

Description: Localities are required to remit all unclaimed property, regardless of the value. The Code requires mailing due diligence letters to all accounts exceeding \$100, and City incurs expenses of staff time and postage for this. This process has specific electronic reporting requirements and deadlines. The policy change recommended is that it would be preferable to raise the remittance to accounts over \$100.

State Code Requiring Mandate: 55-168 through 200.1

Estimated Annual Impact: \$7,500 (postage cost, excluding staff time)

Title: State Special Order by Consent

Description: The State Special Order by Consent to reduce sanitary sewer overflows represents an unfunded mandate from the Virginia Department of Environmental Quality (DEQ). Because the order applies to all jurisdictions regardless of respective performance and regardless of whether any of the jurisdictions were moving forward to reduce sanitary sewer overflows, the order is overly restrictive and prescriptive. Although the majority of this mandated rehabilitation would be required at some point, the Consent Order forces localities to implement it at a speed that will have punishing rate impacts. The Consent Order is not based upon any data or evidence that the sanitary sewer overflows in this area, which occurs during exceptional rainfalls—are a significant contribution to water quality impacts.

State Code Requiring Mandate: State Water Control Board Enforcement Action, Special Order by Consent, September 2007

Estimated Annual Impact: \$10-\$20 million annually

Title: State Comparative Report

Description: The State Comparative Report due to the Auditor of Public Accounts (APA) requires significant accounting resources to ensure that multiple forms and requirements are completed and audited. The APA State Comparative Report duplicates information published in the City's Comprehensive Annual Report. The State should accept CAFR's from localities rather than require a separate, audited report duplicating data.

State Code Requiring Mandate: 15.2-2510

Estimated Annual Impact: \$29,000 (in staff time that could be redirected to other priorities)

Title: State Public Procurement Act Requirement

Description: The requirement to advertise all formal RFP's in a newspaper of general circulation should be repealed from Virginia Public Procurement Act Requirement. This requirement does not enhance the availability of these solicitations to the vendor community.

State Code Requiring Mandate: 2.2-4301 (2)

Estimated Annual Impact: \$15,000

Title: VA Workers' Compensation Act/Workers Compensation Information

Description: Workers' Compensation costs amount to approximately \$6.7 million annually for the City. Workers Compensation legislation should be modified to reduce cost structure, clarify benefits and eliminate areas for litigation. Workers Compensation payments must be paid fully before VRS job-related disability payments may begin. In cases in which an employee is eligible for Job-Related Disability Retirement payments, Workers Compensation should expire so that job-related disability payments may immediately begin. Having to complete Workers Compensation payments prior to beginning Job Related Disability Retirement payments adds costs to municipalities.

State Code Requiring Mandate: 65.2 (reform)

Estimated Annual Impact: \$1 million (approximate)

Title: VA Workers' Compensation Payroll Tax

Description: The tax based on total payroll and the formula based on class codes should be reduced or eliminated for municipalities. Self insured municipalities are responsible for payment of Workers Compensation fees, and should not be assessed a duplicative tax.

State Code Requiring Mandate: 65.2-1000

Estimated Annual Impact: \$158,000

Title: Emergency Communications

Description: The cost of operating E911 operations is increasing, and the migration to new technology (NG911) will cost more. Approximately \$54-57 million of E911 fees are collected annually from wireless carriers in the State. Only 50% of the revenues collected are returned to the 911 Public Service Answering Point centers across the State. Prior to distribution to localities, \$11 million is earmarked for the Comp Board, and \$3.7 million is earmarked for Virginia State Police, who no longer receive E911 calls. The \$0.75 cents collected per phone line is no longer adequate to fund the increasing costs of systems and personnel to operate E911 operations across the State. Monies diverted from the E911 fund mean less revenue is returned to localities, which have to rely more on their General Fund.

State Code Requiring Mandate: 56-484.16

Estimated Annual Impact: \$900,000 (approximate)

Title: Health Insurance Credit for Retired Teachers

Description: Previously 100% of the health insurance for retired teachers was funded. In FY 2004 on a State-wide basis, the percentage declined to 33%.

State Code Requiring Mandate: 51.-1401 (D)

Estimated Annual Impact: \$2,317,413

Title: Virginia Telecommunication Tax

Description: Telecommunication companies had been lobbying the General Assembly for several years to replace the local taxing structures for telecommunications with a uniform tax. In the 2006 General Assembly session, legislation was enacted (HB 568) that replaced local telecommunication taxes with a statewide Communication Sales and Use Tax of 5%, effective January 1, 2007. The legislation eliminated local taxes on telephone services, wireless telephone services, and cable franchise fees^[1]. The Communication Sales and Use Tax of 5% is now applied to these services as well as satellite TV and radio, long distance charges, and Internet telephone services. In addition, the legislation replaced the local E-911 fee with a state-wide fee of \$0.75 per telephone line. Unfortunately, the City's receipts are down \$3 million from revenue neutrality, but we do realize some of this shortfall could have occurred under the previous local taxing structure. The legislation (HB 568) was supported by localities because it was portrayed as revenue neutral. Therefore, we urge the General Assembly to modifying the tax structure to achieve the promised revenue neutrality.

State Code Requiring Mandate: HB 568

Estimated Annual Impact: \$3 million (approximate)

^[1] This legislation also replaced local cable franchise fee agreements but allows existing agreements to continue until their expiration dates; however, these agreements cannot be renewed. (Virginia Beach's agreement with Cox is in place through May 23, 2016.)