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November 15, 2011

Mr. James D. Campbell
Executive Director
VACo
1207 E. Main Street, Suite 300
Richmond, VA 23219-3627

RE: List of Top Mandates of Concern to Counties and Regional Legislative Platform

Dear Jim:

The Culpeper County Board of Supervisors, at the regular meeting on November 1, 2011, reviewed the regional legislative platform and mandates of most concern to counties, provided by VACo. Copies of the Board's comments are attached.

We urge VACo to represent the counties on their major concerns and appreciate the effort in attaining the changes needed.

Sincerely,


Frank T. Bossio
County Administrator

cc: **Governor Robert F. McDonnell**
Senator Emmett Hanger
Senator R. Edward Houck
Senator Jill Vogel
Delegate Edward T. Scott
Senator-Elect Bryce Reeves

At its meeting on November 1, 2011 the Culpeper County Board of Supervisors reviewed the Regional Legislative Platform and acted as noted.

Repeal The Commonwealth's \$60 Million Clawback of Aid to Localities.

Since FY 2010, one budget reduction strategy incorporated into the Biennial Budget has been a lump sum reduction in "Aid to Localities". In the FY 12 budget, \$60 million is required to be "returned" to the state general fund by localities. These returned funds may be taken from a list of various programs that are administered locally with state general funds, such as Constitutional Officers or CSA.

This is the same type of budget-balancing action as the Accelerated Sales Tax, a policy that the Assembly has made a priority to "unwind" and began doing so in the current budget. We ask that the Governor and the Assembly treat this budget-balancing gimmick the same and repeal it in the coming biennial budget.

The Board supported.

Comprehensive Services Act

Since its foundation in 1992, the Virginia Comprehensive Services Act has led the nation by consolidating funding sources and carefully coordinating treatment services for children with severe and significant needs. This care coordination has proven successful in both meeting needs for individual children, and in proving that state and local responsibility and cost sharing can and does work.

Therefore, the General Assembly should require that any changes in CSA law, policy or implementation guidelines (by the CSA State Executive Council) benefit not only the State but also the local governments that share in the funding of CSA. Furthermore, the General Assembly and the SEC must direct the state Office of Comprehensive Services staff to work closely with local governments in a manner that further enhances the collaborative partnership established in the CSA and improves the outcomes observed in this special population of children.

It is clear that the recent changes in the state/local rate sharing, in addition to other program improvements, have led to enhancements in community service capacity. Any proposed changes to the current rate structure should be resisted, leaving the current rate structure in place during the 2012-2014 Biennium.

The Region supports the current structure under the CSA law that invests in the local Family Planning and Assessment Team (FAPT) and Community Policy and Management Team (CPMT) the responsibility to ensure that the proper services are selected for each child, to be provided by properly licensed providers, and at reasonable costs to the public; and opposes any changes to the CSA program that would shift costs from the state to local governments.

The Board supported.

Line of Duty Act

The decision of the General Assembly to require local governments to accept a significant funding responsibility for the Line of Duty Act (LODA) dealt only with "who pays" and did nothing to revise program administration consistent with the change in who pays. For those local governments that opt out of the state administered program there is no reason for state agencies to be involved in claimant eligibility decisions (state police and Comptroller). Local governments that opt out of the state program should be empowered to administer their own LODA obligations having demonstrated the same through self-administration of workers' compensation benefits.

LODA currently provides for the right of appeal by the claimant only. Local governments (that did not opt out of the state administered program) should have the right to appeal a claims determination by the Comptroller.

It is common in most General Assembly sessions to have bills considered that expand the presumption benefit. Now that local taxpayers have a significant cost associated with such decisions localities should have a significant say in any expansion proposal. It is recommended that the General Assembly create a commission for review of such proposals. This commission, modeled on the Mandated Health Benefits Commission, would consider and make recommendation on all such proposed expansions before the Assembly takes action.

The Board supported.

Transportation

The Region appreciates the progress made last year to provide a "down payment" on transportation capital investments. The one-time funding in the current economic situation makes important progress in addressing our severe transportation needs. It is however, essential that investments continue. Providing more transportation choices for all Virginians including those who drive, use mass transit, walk or bicycle must remain a high priority. Transportation planning and decision-making must promote the principles of travel safety, livable communities, economic vitality, environmental stewardship and efficient use of public resources. Sound decision-making must continue to recognize the linkage between land-use and transportation decisions to achieve cost-effectiveness and to retain quality of life. We ask that discussions continue on how to sustain long-term investment in transportation infrastructure and programs.

We recognize that the Administration is studying the structure of our transportation system and considering the potential for devolution of certain functions that have been the responsibility for the Commonwealth for almost a century, such as the secondary road network. We urge the Administration and the General Assembly to work collaboratively with local governments as devolution is considered. If the Administration recommends devolution of the secondary roads system it must be based on a collaboratively developed plan and timetable that meets three principles: smooth transition, appropriate and adequate local authority and access to adequate locally controlled resources without further burden to local property owners.

The Board supported.

Chesapeake Bay Restoration

The proposed Chesapeake Bay TMDL and Virginia's Watershed Implementation Plan (WIP) will require 2-year milestones for the Commonwealth and its localities. Without aggressive state investment in meeting these milestones Virginia localities will be under the threat of limited economic growth. The Region urges the Governor and the General Assembly to be actively involved in identifying and resourcing the solutions. The Rappahannock River Basin Commission has spent many years studying local, state and federal policies on water quality, especially issues related to the Chesapeake Bay Program. The Commission has stood for several principles that the Region feels would be valuable in navigating the difficult and costly choices ahead:

- ✓ There is little value in pointing fingers, we are all a part of the problem and we all must be a part of the solution; agriculture, development, industry, government and individuals all have a stake and a responsibility in restoring the Chesapeake Bay.
- ✓ We must be willing to look for innovative solutions especially ones that encourage or allow people and businesses to make good water quality choices; government can facilitate innovation through existing and new incentives as well as revising regulations that discourage creative private sector solutions.
- ✓ The oversight by the Commonwealth must be flexible and recognize and aggressively promote innovative and environmentally cost-effective solutions – challenge EPA to accept first the investments that generate the greatest pollution reductions per dollar spent. This must be done even if the Chesapeake Bay Model does not recognize a specific practice. If we are strictly bound by what “the model” recognizes we limit opportunities for innovation and are destined to limit cost-effective decision-making.

The Board made no changes.

Urban Development Areas

The Region supports making the use of the UDA as currently defined in the Code of Virginia optional for all localities in the Commonwealth. While we support the *concepts* contained in the Urban Development Area provisions in the Code, the Region believes that the mandated density and intensity factors are inappropriate “one size fits all” standards that do not work well in all localities to which they apply. Additionally we oppose establishing any review requirements for adopted UDA designations that differ from the five-year review cycle currently applicable to the Comprehensive Plan.

The Board supported with expressed notation that land use, density, and intensity requirements should be left to the providence of the locality.

At its meeting on November 1, 2011, the Culpeper County Board of Supervisors reviewed VACo's list of top mandates of concern to counties and acted as noted.

Aid to localities

Reverse the \$120 million biennial reduction in aid to localities.

The Board made no changes.

Line of Duty Act

Delete local funding requirement for Line of Duty benefit. The 2010 General Assembly included budget language transitioning the Line of Duty benefit in FY 2012 from a fully state funded program to one paid by local governments and state agencies. The program is administered by the state, and many local governments opting to self-fund need the authorization to administer the program.

The Board agrees.

Comprehensive Services Act (CSA)

- Make the CSA program subject to the Administrative Process Act. Local governments pay more than 80 percent of the administrative costs of this "shared" program. The state share of administrative costs has not been increased in more than a decade. At the same time, the administrative burdens on local governments have increased in data collection and reporting requirements. The APA ensures adequate public notice about, and input into proposed rules and regulations that affect all taxpayers in the Commonwealth.
- 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 FY 2006 level.
- Increase state match for certain youth 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.
- 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.

The Board made no changes.

Constitutional Officers

Fund fully the state's obligations for mandated constitutional officers. A full fiscal and program analysis should determine state and local responsibilities and whether state funding responsibilities are sufficient. Additionally, the study should examine jail issues including staffing, funding, construction, per diems, operational costs, and benefits.

The Board made no changes.

Culpeper County Board of Supervisors Top Mandates of Concern to Counties

Equal Tax Authority

Equalize county taxing authority to enact local excise taxes including the cigarette tax, admissions tax, transient occupancy tax and meals tax with that of cities and towns.

The Board recommends that counties should have the same taxing authority as cities and town. This would include cigarette tax, admissions tax, transient occupancy tax and meals tax, but not limited to just those.

Public Safety

Increase state funding for state prisoners housed in local jails. Since 2008, the state has closed eight adult correctional facilities and one juvenile facility. More than 3,000 prison beds, or about a tenth of the state capacity, have been eliminated. The state has lowered the per diem payment for state-responsible prisoners held in local jails. The state also has redefined the legal definition for state-responsible inmates so that going forward, state funding will drop even further.

The Board made no changes.

Election Administration

Increase state funding for the local election administration. The state budget contains \$13.8 million in FY11 and \$12.8 million in FY12 for election administration. Of that amount, \$5.8 million a year is designated for electoral services, primarily to pay a portion of salaries for general registrars, and for the salaries and limited expenses for local electoral boards. Localities, however, spent \$40.8 million on election administration in FY09. Thus, localities pay the tab for not only local elections, but also primaries, state and federal elections.

The Board did not favor taxpayers having to pay the cost of primary elections.

Courthouse Construction

Remove the mandate for localities to build and maintain court facilities. State law requires localities to assume the mandated cost to construct and maintain court facilities. If, in the sole opinion of the local circuit court, localities do not meet those requirements, the court can order to build a new courthouse without regard to the fiscal condition of the local government. Additionally, the state has not established incentives for court officials to foster regional facilities. While this mandate has been temporarily suspended by the General Assembly, it remains a threat of significant unplanned expenditures to all cities and counties.

The Board made no changes.

Environmental Protection

- Increase funding for Chesapeake Bay clean up. Virginia local governments face an estimated cost of more than \$7 billion to comply with the Watershed Implementation Plan under Chesapeake Bay TMDL. Localities need additional state and federal funds.
- Delete local monitoring requirements in the Chesapeake Bay Preservation Act.

**Culpeper County Board of Supervisors
Top Mandates of Concern to Counties**

-Local governments subject to the Chesapeake Bay Preservation Act are required to devote staff resources to monitor the five-year septic tank pump out provision of the Act. This should be the job of the Virginia Department of Health since it currently has the records and personnel already in place to monitor this requirement.

-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 appropriately be the responsibility of either the Virginia Department of Conservation and Recreation or the Virginia Department of Agriculture.

The Board previously approved statements on this issue. A copy of the resolution approved by the Board on June 7, 2011 is attached.

CULPEPER COUNTY, VIRGINIA
RESOLUTION CONCERNING THE CHESAPEAKE BAY TOTAL MAXIMUM DAILY LOAD REGULATIONS

WHEREAS, In the mid 1990's US Environmental Protection Agency (EPA) was sued for non-enforcement of the Federal Clean water act of 1972 for allowing high levels of pollution to flow into the Chesapeake Bay. A settlement in 1999 required the EPA to either achieve the water quality standards in the Chesapeake Bay by 2010 or impose a pollution diet that will reduce the pollution to acceptable levels. This pollution diet is known by the term Total Maximum Daily Load (TMDL); and

WHEREAS, the required water quality standards have not been met, EPA is requiring the District of Columbia and the six states in the watershed (Virginia, West Virginia, Maryland, Pennsylvania, Delaware, and New York) to each develop and adopt a Chesapeake Bay TMDL and related Watershed Implementation Plan (WIP); and

WHEREAS, there is a lack of Federal and State commitments to provide funding for the necessary staff expertise, instrumentation tools, and legislative authority for local governments to administer Watershed Implementation Plans; and

WHEREAS, aligning incentives between State and Federal programs responsible for point and non-point source pollution and Best Management Practices would reduce uncertainty with respect to statutory provisions, and funding available for local efforts; and

WHEREAS, arbitrarily designating all state waters and wetlands for recreational uses, including swimming, regardless of their actual use or suitable use, and applying the Water Quality Standards for such uses, diverts scarce resources from viable TMDL initiatives; and

WHEREAS, the Chesapeake Bay TMDL carries a significant financial burden for local government through implementation and regulation of Watershed Implementation Plans and will also affect citizens and many industries such as agriculture and development through increased fees and regulations:

WHEREAS, while we agree that there is a benefit of clean waters within the Bay and local watershed, the economic costs for compliance must be balanced, and water quality programs cannot be developed in a vacuum without considering economic impacts to the local economy;

NOW, THEREFORE, BE IT RESOLVED, that the Culpeper County Board of Supervisors hereby opposes the Chesapeake Bay TMDL Implementation Plan and the associated unfunded mandates.

BE IT FURTHER RESOLVED, that the Culpeper County Board of Supervisors strongly opposes the accelerated implementation of the Chesapeake Bay TMDL Implementation Plan.

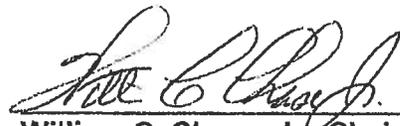
ADOPTED this 7th day of June, 2011.

VOTING AYE: Aylor, Chase, Nixon, Rosenberger, Underwood, Walker

VOTING NAY: Hansohn

ABSTAINING: None

ABSENT: None



William C. Chase, Jr., Chairman

ATTEST:



Frank T. Bossio, Clerk to the Board