



**Gloucester County  
Administrator's Office**

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November 2, 2011

L. Kimball Payne  
City Manager  
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Dear Mr. ~~Payne~~, *Kim*

At its November 1 meeting, the Gloucester County Board of Supervisors endorsed VACO's list of top mandates of concern to counties. Additionally, they also agreed to add comments provided by Kevin Wilson, Commissioner of the Revenue, on mandates related to taxation and the Commissioner of the Revenue. We remain very concerned about the continued erosion of financial support from the state for its share of education and expenses related to Constitutional Officers.

Good luck in your work on the Governor's Task Force for Local Government Mandate Review. Thank you for the opportunity to provide input and comment.

Respectfully yours,

Brenda G. Garton  
County Administrator

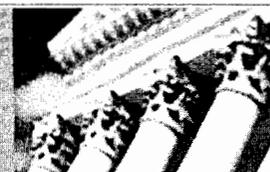
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cc: Board of Supervisors  
Constitutional Officers  
Department Directors  
File: Legislative Agenda  
Chronological Correspondence

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## VACo presents governor its list of top mandates of concern to counties

County supervisors recently received an announcement from Gov. Robert F. McDonnell about the creation of his Task Force for Local Government Mandate Review. This five-member task force was appointed to review state mandates imposed on localities and to recommend temporary suspension or permanent repeal of such mandates.

The message urged local officials to provide the task force with a list of state mandates that they believe should be modified or eliminated. The governor also indicated that he had received a VACo list of burdensome mandates, especially unfunded ones, which the state dictates to counties.

Listed below are the mandates that VACo sent to the governor at his request late last month. This same list was presented by former VACo President Phillip Bradshaw to the Intergovernmental Relations Committee of the Reform Commission on Aug. 4, 2010.

While this is not an exhaustive inventory of all burdensome mandates imposed on counties, it includes the top mandates identified by VACo's leadership.

For further information, contact [Ted McCormack](#) or [Dean Lynch](#).

### Aid to localities

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

### 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.

### Public Education

- Review the Standards of Learning, the Standards of Accreditation and other administrative regulations to bring them into sync with the current Standards of Quality. If the state cannot afford its standards, then it needs to develop standards that it can afford instead of simply passing those costs onto local governments. Fully fund rebenchmarking.
- Delete state educational mandates that exceed federal requirements:

-Currently, the state mandates all students in grades 3-8 be tested in not only reading and math, but also in social studies and history, and that students in high school take additional end of course tests. The federal No Child Left Behind (NCLB) only requires students be tested in reading and math as well as in science once while in elementary, middle and high school.

-Virginia exceeds the federal requirements under the Individuals with Disabilities Education Act (IDEA), however, in over 175 areas. When Virginia's regulations exceed the federal requirements, those regulations impose significant additional costs on the state and, most importantly, local governments.

### **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.

### **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.

### **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.

### **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.

### **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.

### **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.

### 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.

-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.

### VACO's Legislative Team: Contact Information

If you have questions about legislation, give us a call.

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The Virginia Association of Counties exists to support county officials and to effectively represent, promote and protect the interests of counties to better serve the people of Virginia.

# MANDATES RELATED TO TAXATION & COMMISSIONER'S OF REVENUE

## **Constitutional Officers**

I agree with the position VACO has taken on this matter and don't feel it necessary to comment further at this time.

## **Equal Tax Authority**

Equalizing the tax authority serves purposes outside of enacting additional local taxes, obviously given the Dillon Rule we are limited in our tax structure to raise revenue but one of the main complaints in the business industry has been the lack of uniformity in taxation from jurisdiction to jurisdiction and this would assist to alleviate the problem. Let me explain, Cities have "**Meals Tax**" and Counties have "**Prepared Food and Beverage Tax**" most believe they are the same and on the surface they are but are administered differently which causes confusion in terms of application for the Food Industry. This leads to over taxation of citizens and burdensome regulations on business to apply differently at the cash register. And when it comes to Cigarette Tax no one monitors cigarette tax violations in Counties for the most part as they do in Cities leaving millions of state tax dollars on the table uncollected.

## **Business License or Business Professional & Occupational Licenses**

Localities have the authority to adopt an ordinance assessing a tax on businesses in accordance with the authority delineated in the Virginia Code. The intent of this authority was expressly for the purpose of taxation, not regulation of local businesses. The General Assembly has seen fit to mandate local governments to regulate where the state has limited resources to accomplish. In brief, over the last 10 years the state has this office enforcing annually state Contractors licensure, Workers Compensation registration and enforcing the laws related to certain businesses such as Bail Bondsmen and Massage Therapist.

## **Collection of Information**

The 2011 General Assembly commissioned a study to be performed by JLARC stating that local tax officials **must** collect data on the net income of businesses operating within the County. WE must collect the information, enforce the failure to supply such on local businesses and summarize the information for JLARC use at our cost in supplies and staff time.

## **State Income Tax**

Annually we prepare and/or audit 4000 +/- state tax returns for the state. Those returns must be returned to the state at our expense and on their timeline. This year they stopped the supply of state income tax forms and instructed us to print them as necessary from their website. Please keep in mind the state provides no 800 number for taxpayer assistance and provides no regional assistance for the preparation of returns. We are happy to assist taxpayers but this is another example of the state cutting their budgets and passing along the expense to localities solely to discourage local tax assistance.

## **Personal Property Taxation**

In personal property tax they limit our authority to assess passenger vehicles and now charge us \$3,900 annually for NADA values, a product once received for free, which are used for the purposes of taxation.