

Memorandum

Date: November 16, 2011

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

From: G. Cabell Lawton, IV
County Administrator, New Kent County

Subject: Information for Consideration for the Committee

Dear Members of the Committee:

Please accept the following list of mandates identified by County staff as needing to be addressed or repealed. Please be aware that the New Kent County Board of Supervisors has not yet reviewed or approved this list and the list may be modified by the Board as they see fit. This is being sent to you today in response to your deadline but New Kent may desire to submit additional information in the future for your consideration.

If you have any questions, please do not hesitate to contact me.

State Mandates

Forestry

New Kent County when entering into a contract for services with the Department of Forestry, must reimburse the Department for expenditures for forest protection, forest fire detection, forest fire prevention, and forest fire suppression. Such amount shall not exceed, in any one year, an amount equal to seven cents per acre of privately owned woodland beginning July 1, 2008, and nine cents per acre beginning July 1, 2009. A locality should not have to pay for the operations of a state agency.

Animal Laws

New Kent County animal control officers shall inspect commercial dog breeding locations at least twice annually and additionally upon receipt of a complaint or their own motion, to ensure compliance with state animal care laws and regulations. The county should not be required to enforce state regulations.

Urban Development Areas

New Kent County is required to adopt one or more urban development areas (UDAs) appropriate for higher density development due to proximity to transportation facilities, the availability of a public or community water and sewer system, or proximity to a city, town, or other developed area. The County is required to include the UDAs in its comprehensive plan, and provide the Commission on Local Government documents describing all UDAs, as well as a resolution certifying compliance with the UDA

requirements, together with associated written policies, zoning provisions and other ordinances, and the capital improvement program. This information must be provided to the Commission within 90 days of the adoption or amendment of comprehensive plans, written policies, zoning provisions, and other ordinances. These planning concepts should be voluntary if determined appropriate by the local governing body.

Renewable Energy Generation Facility Ordinances

If New Kent County wants to address the siting of renewable energy facilities that utilize solar or wind resources, its actions are required to be consistent with the Commonwealth Energy Policy, provide reasonable criteria for the protection of the locality and include reasonable provisions establishing setbacks, noise limitations, buffer requirements, and standards for the decommissioning of the facility. The county should not be required to enforce state regulations.

Investment of Virginia Public School Authority Bond Proceeds

If New Kent County participates in any Virginia Public School Authority pooled financing, it is required to invest the proceeds from the sale of their local school bonds in the Virginia State Non-Arbitrage Program. This should be a decision left up to the local governing body.

Comprehensive Services for At Risk Youth and Families

The Comprehensive Services Act for At-Risk Youth and Families of 1992 requires New Kent County to coordinate services for youth and families in order to receive State funds for care and treatment of troubled and at-risk youths and families. The costs of this program are divided between the state and local governments; however, the more expensive programs are increasingly becoming more the obligation of local funds.

State/Local Hospitalization Program

New Kent County is required to participate in the State/Local Hospitalization Program. Localities are required to provide funds for a share of the total costs to provide hospital and medical care to qualified applicants. This should be a decision left up to the local governing body.

Auxiliary Grant Program for SSI Recipients

The New Kent County Department of Social Services must determine the eligibility of clients for the auxiliary grant program for supplemental security income (SSI) recipients and provide local funding for a share of the program costs in accordance with State regulations. The county should not be required to enforce state regulations.

Stormwater Management Programs by Localities

New Kent County is located within Tidewater Virginia as defined by the Chesapeake Bay Preservation Act (§ 10.1-2100 et seq.), and is required to adopt a local stormwater management program for land disturbing activities consistent with the Stormwater Management Law. This will add tremendously the cost of developing land and will also require local capital projects costs to increase.

Fees for Solid Waste Management Facility Permits

Local governments applying for new, amended, or modified permits for solid waste management facilities must pay a permit application fee in order for the permit to be considered complete. Annual fees are required for the operation of specified waste management facilities, which we understand are used to fund state operations. A locality should not have to pay for state operations.

Recycling Program and Annual Recycling Rate Report

Solid Waste Planning Units (individual local governments or regional authorities) must develop and implement recycling programs to maintain a mandated recycling rate of 15% or 25%. Solid Waste Planning Units with population densities less than 100 persons per square mile or with a civilian unemployment level more than 50% above the statewide average qualify for the 15% level, while all others must meet the 25% mandate. Plans for achieving this rate must be included in the solid waste management plans on file with DEQ. Data to document recycling rates for the preceding calendar year must be reported by April 30 of each year to the Department of Environmental Quality (DEQ). This should be a decision left up to local governing bodies.

Local and Regional Water Supply Plans

New Kent County is required to submit water supply plans to DEQ, who then reviews the plans to determine compliance with regulations and consistency with the State Water Resources Plan. After the plans are approved, DEQ will re-review them every five years. There is a tremendous cost that all localities who submit these plans must appropriate and the state is becoming increasingly stingy when making water allocations regardless of the planning.

Environmental Impact Reports for Local Road Projects

Any local government that undertakes highway construction, reconstruction, or an improvement project affecting highways or roads with a cost of \$500,000 or more must prepare an environmental impact report. This low threshold results in having to prepare reports on almost all projects and increases the costs of transportation.

Constitutional Officer Annual Budget Request

Each city and county must elect a treasurer, clerk of court, commissioner of revenue, sheriff, and attorney for the Commonwealth. All constitutional officers shall file, on or before February 1 of the fiscal year for which the request is made, a request for the expenses of their offices. The requests shall be made in the manner prescribed by the Compensation Board. It should be up to the locality as to when those requests are made.

Funding Constitutional Officer Expenses

The salaries, expenses, allowances, and office equipment of constitutional officers shall be paid for in full by all counties and cities, and the State shall reimburse the counties and cities for their approved, proportional share. This proportional share is constantly decreasing for the state and increasing for localities.

School Board Employee Grievance Procedure

School divisions must have prescribed grievance procedures covering all school employees except superintendents and probationary employees. This procedure should not include management, at-will employees, or exempt employees.

Pupil/Teacher Ratios

School divisions are required to assign licensed instructional personnel in a manner that produces division-wide ratios of students in average daily membership to full-time equivalent teaching positions, excluding special education teachers, principals, assistant principals, counselors, and librarians, according to ratios prescribed in the Code of Virginia. In addition, instructional personnel must be assigned in a manner that produces school-wide ratios of 21:1 in middle schools and high schools. Annual reports on actual elementary school pupil/teacher ratios are required. If the state wants lower pupil/teacher ratios, then additional funding should be provided to localities.

Minimum Standards for New Construction and Renovation of School Facilities

All school construction or renovation plans must be approved by the division superintendent to insure compliance with minimum standards adopted by the State Board of Education and the Uniform Statewide Building Code, and must be submitted to the Superintendent of Public Instruction. The state does not provide any funds for capital construction. If they want to dictate the standards, they should compensate localities for the additional cost for constructing to that standard.

Sale of School Property

School divisions that sell surplus real property must establish a capital improvement fund in which the proceeds of such sale accrue. The fund shall only be used for new school construction, school renovation, and major school maintenance projects. These decisions are better left to the local elected officials.

Required Local Funding Effort for School Division

New Kent County must appropriate funds for the operation of local school divisions at a level not less than that apportioned in compliance with the Code of Virginia for meeting the Standards of Quality in local educational programs. School boards shall submit a report of all expenditures to the governing body annually at a specified time, using a template prescribed by the state Department of Education. School divisions shall annually publish their approved budgets, including local match, and expenditure reports, on the school division websites and make the approved budget available in hard copy as needed to the public for inspection. These decisions are better left to the local elected officials.

School Year to begin after Labor Day

Local school boards shall set the school calendar so that the first day for students is after Labor Day. This requirement may be waived by the Board of Education if a school board certifies that it has had a history of excessive closures due to severe weather or emergency situations, if it is involved in dependent programs that would otherwise require the system to begin school before Labor Day, if it offers approved experimental

or innovative programs, or if it is entirely surrounded by a school division that opens prior to Labor Day. Everyone knows that this was set in place to assist major theme parks with their staffing. This should be decided by the local elected officials.

Court Service Unit Standards

New Kent County operates a local service units for juvenile and domestic relations courts, complies with minimum State staff and personnel standards, and provides services determined by the State Board of Juvenile Justice. If the state is setting the standard, it should fund the cost of meeting that standard.

Airport Property Lease

New Kent County sponsors an airport and must obtain the approval of the Department of Aviation on all leases involving land that is airport property. These decisions are better left to the local elected officials.

Coordination of State and Local Transportation Planning

New Kent County must submit comprehensive plans, plan amendments and rezoning proposals that substantially affect transportation on a state-controlled highway to VDOT for review and comment. In addition, a traffic impact analysis must be prepared and submitted for most rezoning requests and small area plans for urban development areas or transit oriented developments. This slows down the review and permitting process.

Cluster Zoning

New Kent County must include in its Zoning Ordinance provisions requiring clustering of single-family dwellings to preserve open space. This should be left to the local governing body.

Principles of New Urbanism and Traditional Neighborhood Development

In urban development areas designated in its comprehensive plan, New Kent County must incorporate principles of traditional neighborhood design, which may include but need not be limited to (i) pedestrian-friendly road design, (ii) interconnection of new local streets with existing local streets and roads, (iii) connectivity of road and pedestrian networks, (iv) preservation of natural areas, (v) mixed-use neighborhoods, including mixed housing types, with affordable housing to meet the projected family income distributions of future residential growth, (vi) reduction of front and side yard building setbacks, and (vii) reduction of subdivision street widths and turning radii at subdivision street intersections. These decisions are better left to the local elected officials.

Wireless Telecommunication Antenna Sites

New Kent County must act upon zoning applications for a wireless telecommunication antenna site within 150 days for a new tower site, or within 90 days for a co-located antenna. Additionally, a locality cannot deny an application solely because wireless service is already available from another provider. These decisions are better left to the local elected officials.

Cc: New Kent County Board of Supervisors