
COMMONWEALTH OF VIRGINIA



OFFICE OF THE GOVERNOR

EXECUTIVE ORDER 58 (2007)

Establishment of Policies and Procedures for Agency Assessment of Mandates on Local Government

By virtue of the authority vested in me as Governor under Article V of the Constitution of the Commonwealth of Virginia and under the laws of the Commonwealth, including but not limited to Sections 2.2-613 and 15.2-2903(6) of the *Code of Virginia*, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby establish policies and procedures by which the executive agencies of the Commonwealth shall critically assess and periodically reassess all mandates imposed on localities administered by such agencies. Unnecessary, redundant and conflicting mandates imposed on localities siphon local governments' limited resources thereby contributing to fiscal stress and hardship and detracting from other needs and priorities. Thus, the purpose of the mandate assessment process is to determine which mandates, if any, may be altered or eliminated without interruption of local service delivery and without undue threat to the health, safety, and welfare of the residents of Virginia.

A. Mandates Defined

1. For purposes of implementing Section 15.2-2903(6) of the *Code of Virginia*, a mandate shall be defined as a constitutional, statutory, or administrative measure or action that places a requirement on local governments.
2. Mandates placing requirements on local governments shall be classified as compulsory orders, non-discretionary conditions of aid, regulation of optional activities, or state fiscal preemption. These classifications shall be defined as follows:

- (a) Compulsory Orders are measures or actions that impose requirements with which localities must comply in the performance of their prescribed responsibilities.
- (b) Non-Discretionary Conditions of Aid are requirements which are imposed as a condition of receiving state and/or federal financial aid for which localities are obligated or encouraged to apply.
- (c) Regulation of Optional Activities are measures imposing state and/or federal government requirements relative to the performance of activities that are not mandated but are subject to such regulation if performed.
- (d) State fiscal preemption is a measure or action that results in a net reduction of revenues collected by a locality or restricts a locality's authority to collect such revenues.

B. Requirements

1. Assessment of Current Mandates

The executive agencies of the Commonwealth shall assess all local government mandates, which they currently administer, as determined by the Commission on Local Government and specified in the most recent edition of the Catalog of State and Federal Mandates on Local Governments, as follows:

- (a) All assessments performed by agencies pursuant to Section 2.2-613 and Section 15.2-2903(6) of the *Code of Virginia* shall be conducted consistent with the standardized assessment form adopted by the Commission on Local Government.
- (b) During the mandate assessment process, agencies should solicit fiscal impact data and evaluative comment from affected local governments and indicate on the assessment form the localities providing the data or that no data was provided.
- (c) Agencies shall initiate, conduct and complete the assessment of all mandates within the scheduled assessment periods established by the Commission on Local Government pursuant to the provisions of this Executive Order.

- (d) Agencies shall submit their assessments, including any recommendations regarding the alteration or elimination of mandates, to the appropriate Cabinet Secretary for endorsement or amendment.
- (f) Completed assessments, signed by the Agency Head and approved by the Cabinet Secretary, shall be submitted by the agency to the Commission on Local Government no later than five business days after the conclusion of the scheduled assessment period.
- (g) The Commission on Local Government shall distribute copies of all completed assessments received from state agencies to the Governor, the Secretary of Commerce and Trade, the Clerks of the House of Delegates and Senate, the Virginia Association of Counties (VACo) and the Virginia Municipal League (VML) and to other interested parties upon request.

2. Annual Specification of Scheduled Assessment Periods

- (a) Each year at such time as the Commission on Local Government shall designate, agencies shall submit to the Commission a proposed schedule establishing specific dates for the assessment periods for new or newly identified mandates, as specified in Section 4 of this Executive Order, or for the reassessment of existing mandates as may be appropriate pursuant to Section 5 of this Executive Order.
- (b) The Commission on Local Government shall adopt the schedule for assessment periods proposed by the agencies, unless, in its judgment, substantial reason exists for modification.
- (c) The Commission on Local Government shall submit the adopted schedule for assessment periods to the Secretary of Commerce and Trade and the Governor for their review and approval.
- (d) Subsequent to approval by the Secretary of Commerce and Trade and the Governor, the Commission on Local Government shall forward copies of the schedule for assessment periods to the affected agencies.

- (e) Subsequent to approval by the Secretary of Commerce and Trade and the Governor, the Commission on Local Government shall file copies of the schedule for assessment periods and any modifications thereof with the Clerks of the House of Delegates and the Senate. The Commission shall also file copies of the schedule and any modifications with VACo and VML and with the Registrar of Regulations for appropriate publication in The Virginia Register.
3. Modification of Scheduled Assessment Periods
- (a) With due notice and sufficient cause, approved agency assessment periods may be subsequently modified by the Commission on Local Government upon its own initiative or upon the request of the administering agency, affected local governments, VACo or VML.
 - (b) All modifications to agency assessment periods approved by the Commission on Local Government shall be subject to the approval of the Secretary of Commerce and Trade.
4. New and Newly Identified Mandates
- (a) The Commission on Local Government shall endeavor to identify for inclusion in the next annual catalog of state and federal mandates, as prescribed by Section 15.2-2903(7) of the *Code of Virginia*, all mandates on local government not previously cataloged.
 - (b) Executive agencies are directed to assist the Commission on Local Government in identifying new mandates which they will administer as well as mandates not previously identified which they are currently administering.
 - (c) Executive agencies administering such mandates shall be responsible for their assessment consistent with the relevant sections of this Executive Order.
 - (d) No mandate shall be subject to assessment by any agency until it has been in effect for a minimum of two years.
5. Reassessment of Mandates
- (a) No mandate that has been assessed or reassessed by any agency through the assessment period concluding in April 2007 shall again be subject to reassessment unless such

reassessment is requested by the Commission on Local Government after the Commission has duly considered input from local governments, state agencies, interest groups and the public.

- (b) No mandate shall be subject to reassessment more than once every four years unless such mandate has been so substantially modified as to create a new mandate. Any mandate so modified shall not be subject to assessment by any agency until it has been in effect in its modified form for a minimum of two years.
- (c) All reassessments of mandates shall be scheduled and conducted consistent with the relevant sections of this Executive Order.

This Executive Order rescinds Executive Memorandum 1-98 issued on October 29, 1998.

This Executive Order shall be effective upon its signing and shall remain in full force and effect until amended or rescinded by further Executive Order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 11th day of October, 2007.

Timothy M. Kaine, Governor

Attest:

Secretary of the Commonwealth