

1979

ANNUAL REPORT OF

THE LOCAL GOVERNMENT ADVISORY COUNCIL

TO

THE GOVERNOR

AND

THE GENERAL ASSEMBLY



House Document No. 7

COMMONWEALTH OF VIRGINIA
Richmond, Virginia
1980



COMMONWEALTH of VIRGINIA

DEPARTMENT OF
INTERGOVERNMENTAL AFFAIRS

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DEPUTY DIRECTOR

December 17, 1979

TO: The Honorable John N. Dalton
Governor of Virginia
and
Members of the General Assembly of Virginia

Pursuant to Title 2, Chapter 19.1, Section 2.1-335.1 through 2.1-335.3 of the Code of Virginia of 1950, as amended, the Local Government Advisory Council submits its Annual Report for 1979.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Charles A. Christophersen".

Charles A. Christophersen
Secretary

cc: Members, Local Government Advisory Council
Planning District Commissions

ANNUAL REPORT OF THE LOCAL GOVERNMENT ADVISORY COUNCIL

SCOPE OF REPORT

Legislative Authority

The Local Government Advisory Council was originally established in January 1977 by Executive Order. The organizational meeting was held in May of 1977 and the Council met monthly until April of 1978 when it was determined to meet bi-monthly. During the 1978 Session of the General Assembly, legislation was enacted to establish the Council on a permanent basis.

During the 1979 Session of the General Assembly, the legislation creating the Council was amended to insure that only elected officials of local governing bodies would be eligible to serve as members of the Council at the pleasure of the Governor and for not more than eight consecutive years. The legislation affecting such change is attached as Appendix A.

Membership

The Governor served as Chairman, the Lieutenant Governor served as Vice-Chairman and the other individuals listed below served on the Council during 1979.

P.D. # 1 Mr. George E. Hunnicutt	P.D. #15 Mr. E. Merlin O'Neill
# 2 Mr. Julius W. Hall	#16 Mr. Andrew H. Seay
# 3 Dr. Carl E. Stark	#17 Mr. W. D. Gray
# 4 Mr. William L. Whitlock	#18 Mr. William T. Robinson
# 5 Dr. Noel C. Taylor	#19 Mr. E. W. Burrow
*# 6 Mr. David F. Bear, Jr.	#20 Mr. Patrick L. Standing
# 7 Mr. John D. Hardesty	#21 Mr. Jerome W. Hogge
# 8 Mrs. Dorothy T. Grotos	#22 Mr. C. D. Marsh
# 9 Mr. J. Willard Lineweaver	Virginia Municipal League,
#10 Mr. Laurence A. Brunton	Mr. Richard DeCair
#11 Mr. Scott A. May	Virginia Association of
#12 Mr. Francis Thornton West	Counties, Mr. George
#13 Mr. E. Norborne Doyle	Long
#14 Mr. J. David Crute	

*Mr. David F. Bear, Jr. resigned from the Council and was replaced by Mr. Harry R. Byrd of Dayton, Virginia.

Organization

The Council continued the Committee structure corresponding to the Governor's Cabinet. Listed below is the membership of the Committees.

Administration and Finance

Mr. William W. Robinson, Chairman
Mr. Jerome W. Hogge
Dr. Noel C. Taylor
Mr. William L. Whitlock

Commerce and Resources

Mr. George E. Hunnicutt, Chairman
Mr. John D. Hardesty
Mr. C. D. Marsh
Mr. Patrick L. Standing

Education

Mr. Andrew H. Seay, Chairman
Mr. W. D. Gray
Mr. Francis Thornton West

Human Resources

Dr. Carl E. Stark, Chairman
Mrs. Dorothy Grotos
Mr. Scott A. May

Public Safety

Mr. J. Willard Lineweaver, Chairman
Mr. J. David Crute
Mr. E. Norborne Doyle
Mr. E. Merlin O'Neill

Transportation

*Mr. David F. Bear, Chairman
**Mr. Laurence A. Brunton
Mr. E. W. Burrow
Mr. Julius W. Hall

*Resigned from Council, replaced on Committee by Mr. Harry R. Byrd.

**Appointed Chairman upon Mr. Bear's resignation.

The Department of Intergovernmental Affairs continued to serve as Secretary of the Council, and the staff to each Committee was designated by each Secretary.

Activities

Prior to the 1979 Session of the General Assembly the Council had adopted the following resolutions:

That the Governor be requested to support legislation limiting State increases in the compensation for employees of local constitutional officers to a percentage equal to the percentage increase which a locality grants to its other employees.

That the Governor be requested to support legislation fixing at its present level the ratio of students to teachers prescribed in the standards of quality for public schools and to prohibit further decreases in the ratio.

The Governor supported two bills during the 1979 Session which would have satisfied the resolutions. The bill dealing with the student-teacher ratio was defeated, and the bill dealing with the compensation for employees of local constitutional officers was amended and passed and is attached as Appendix B.

The Council, agreeing not to meet during the 1979 Session of the General Assembly, held meetings on April 5, June 12, August 8, October 8 and December 6.

During the course of its work during 1979, the six Committees of the Council continued to meet with the Office of the Cabinet Secretaries and State Agencies on a variety of issues. Matters which are continuing to receive the attention of the Committees are: indirect cost allocation procedures for LEAA grants to Planning District Commissions; funding for training for law enforcement personnel; education of the handicapped; adverse publicity concerning the community colleges; building code requirements in schools; preservation of prime agricultural land; controlling costs of local governments; industrial revenue bonds; and tax-exempt organizations.

The Council adopted the following resolutions:

Agreed that no further action be taken to limit State increases in the compensation for employees of local constitutional officers.

Requested the Governor to inform Virginia's congressional delegation that the Local Government Advisory Council strongly supports the continuation of General Revenue sharing for the State and local governments.

The Governor was requested to support the personnel standards adopted by the State Board of Education which avoids further mandated across-the-board decreases in class size and accompanying increases in cost but which responds to the need for more favorable staffing when there is a demonstrated educational need and when the cost of additional staff is supported by State funds.

Supported the Governor's statement to all Virginians on energy management and conservation.

Endorsed the position of the Governor and Attorney General in supporting the surface coal mining industry in its disagreement with the Federal regulations covering land use management and the development of the coal surface mining industry.

Requested the recession of the interim policy of the Corps of Engineers which requires that "local interests" pay for the disposing of spoils.

Recommended that the Governor, with appropriate State agencies, develop a comprehensive strategy for dealing with the transportation of radiological and other hazardous materials.

Supported the Governor's opposition to the closing of service stations on weekends.

Recommended that the State law be amended to provide reimbursement to localities for the services of the first assistant voter registrar and to lower the population requirement for an assistant voter registrar to a level of 5,000 or more.

Recommended a change in state law raising the limit which requires counties to receive bids on purchases and sales from \$2,500 to \$5,000.

Recommended that the state share of special education funds be increased from 40 percent to 65 percent thus increasing the State and Federal share to 75 percent of total cost and reducing the local share to 25 percent.

Additionally, the Committee on Human Resources recommended that the Governor approve the guidelines which have been recommended authorizing local governments to consolidate human resource agencies.

In addition to the work of the six committees, the Council, in response to Governor Dalton's request began the development of a list of state-mandated programs which are of concern to local governments. Each mandate was analyzed by the office of the Cabinet Secretary having responsibility for the particular program as to whether the mandate was state or federal, the date of the mandate, and the recommended action of the Secretary. The mandates were then referred to the appropriate Committee of the Council. Attached as Appendixes C, D, E, F, G and H are the mandates assigned to each Committee.

Conclusion

The Council feels its work is now starting to show some results. Legislation will be introduced during the 1980 Session of the General Assembly to begin to relieve localities of certain state mandates. Also, State agencies which are proposing regulations are now beginning to work with the appropriate committee of the Council in an effort to include the views of local government early in the development phase of the regulations. With these trends now starting, the Council looks forward to being a constructive voice in Virginia's governmental family.

CHAPTER 514

An Act to amend and reenact § 2.1-335.1 of the Code of Virginia, relating to the Local Government Advisory Council.

[H 1450]

Approved MAR 29 1979

Be it enacted by the General Assembly of Virginia:

1. That § 2.1-335.1 of the Code of Virginia is amended and reenacted as follows:

§ 2.1-335.1. Council created; compensation; expenses; reports to Governor and General Assembly.—There is hereby created the Local Government Advisory Council. The Council shall consist of twenty-six members, including the Governor, the Lieutenant Governor, the executive director of the Virginia Association of Counties and the executive director of the Virginia Municipal League. The remaining twenty-two members shall be elected officials of local ~~government~~ *governing bodies* appointed by the Governor subject to confirmation by the General Assembly at its next regular session. One member shall be appointed from each of the geographical areas of the Commonwealth that are consistent with the boundaries of its twenty-two planning districts. Such members shall serve at the pleasure of the Governor ~~for a term of four years~~, and shall cease to be a member if not a locally elected official. *No member shall serve more than eight consecutive years.* The Governor shall be the Chairman of the Council and the Lieutenant Governor shall serve as Vice-Chairman. The members of the Council shall be paid their necessary expenses incident to their work upon the Local Government Advisory Council. The Council shall make such reports as to its findings as it deems proper and shall, at least thirty days prior to every regular session of the General Assembly, report to the Governor and the General Assembly.

 President of the Senate

 Speaker of the House of Delegates

Approved:

 Governor

CHAPTER 538

An Act to amend and reenact § 14.1-51 of the Code of Virginia, relating to the setting of salaries by the Compensation Board.

[H 1968]

Approved MAR 29 1979

Be it enacted by the General Assembly of Virginia:

1. That § 14.1-51 of the Code of Virginia is amended and reenacted as follows:

§ 14.1-51. Duties of Board in fixing salaries, expenses, etc.—All salaries, expenses and other allowances of all such officers shall, if possible, be fixed and determined at least fifteen days before the beginning of each budgetary period on or before May fifteen of each year. The Board shall, at meetings duly called by the chairman, carefully consider the questionnaires and written requests filed as required by § 14.1-50 and consider the work involved in the discharge of the duties of the respective officers, the amount expended or proposed to be expended by each for clerks, deputies and other assistants, the efficiency with which the affairs of each such office are conducted, and such other matters as the Board may deem pertinent and material, *including the pay and compensation plan of each political subdivision, if it has one, and the locality's plans for adjustments of salaries and expenses for the ensuing fiscal year*, and after such consideration the Board shall fix and determine what constitutes a fair and reasonable salary which is to be paid to each such officer and to his clerks, assistants and deputies, and all other expense items requested. Prior to holding any such meeting for the fixing of salaries and expenses as provided in this article, ten days' written notice of the time, place and purpose of such meeting shall be given every officer affected and to the mayor or city manager of the city or to the chairman of the governing body *and administrator, executive or manager* of the county affected.

When the salaries, expenses and other allowances for the several counties and cities have been tentatively fixed by the Board, they shall notify the governing body of each city and county of the amounts so fixed. Within thirty days thereafter, but not later, the governing body may file with the Compensation Board any objection it may have to such allowances so fixed. When such objection is filed the Board shall fix a time for a hearing on such objection, of which time the governing body as well as the officer affected shall have at least fifteen days' notice. For the purpose of determining the merits of such protest the governing body may designate two members of such body to serve as additional members of the Compensation Board and such additional members shall each have one vote on the Board.

The chairman of the Board shall record the salary of each such officer, his clerks, assistants and deputies, and the allowances made for other items, and shall promptly notify each such officer of the same with respect to his office.

President of the Senate

Speaker of the House of Delegates

Approved:

Governor

ADMINISTRATION AND FINANCE ISSUES

1. Mandate requiring uniform reporting of financial records will require the city to contract the services of an accountant.

A new Uniform Financial Reporting System has been developed and authorized by the Auditor of Public Accounts pursuant to § 15.1-166, Code of Virginia (1950), as amended and revised.

The implementation date is scheduled for July 1, 1980 for counties and cities, and July 1, 1982 for towns that have a separate school division or a population of 3,500 or more.

Over \$100,000 of State funds was spent to develop a Uniform Financial Reporting Manual and schedule six regional training seminars to familiarize local government with the new System. The Auditor's office feels there is over a 90% favorable reaction from localities to adopt the System.

The City of Norton, that raised this issue, recently wrote the Auditor of Public Accounts a very favorable letter concurring in the need for the new System and asking for State assistance should any problems arise in the future. A training session will be held in the Norton region in the next few months.

There appears to be a nationwide interest, a general intent, plus federal government encouragement to adopt good accounting procedures and comparative cost principles on revenues and expenditures. A study conducted by the Virginia Revenue Resources and Economic Commission was the impetus for updating and improving the Uniform Financial Reporting System.

We recommend no further Committee action.

2. Reassessments of real estate

Scott County conservatively estimated that reassessment every four years cost the County at least \$90,000.

The Department of Taxation states that § 58-778 effective July, 1979, permits the County to elect a return to reassessment at six year intervals. The Department feels that real estate reassessment on a four year basis is better, and that Scott County will lose tax revenue if they decide to return to the six year basis.

As the State Code permits Scott County to elect the option to a six year reassessment basis, as desired, no further Committee action is considered necessary.

3. Election laws make the county pay for conducting elections, except registrars. The need for an assistant registrar is questioned

The State enacted legislation to aid localities in the cost of elections and to reimburse the salaries of general registrars based on population. § 24.1-31, amended July, 1979, refers to electoral board compensation, and § 24.1-45 requires assistant registrars for localities with a population of 15,500 or more, 1975 amendment. The State does not reimburse localities for assistant registrars salaries.

The Board of Elections feels that assistant registrars must be trained to aid general registrars, act as a "back-up" in event the general registrar is incapacitated and to be knowledgeable of election laws. There are some that suggest assistant registrars should be required in localities of 5,000 population and up.

It is recommended that the Committee examine this issue to decide whether sufficient statewide interest exists to warrant further committee investigation.

4. Possibility of elimination of revenue sharing

Revenue sharing for education to Virginia localities amounts to approximately \$47 million annually. This disbursement is handled by the Department of the Treasury, Office of Revenue Sharing, under Title 31, Code of Federal Regulations, Subtitle B, Part 51, Fiscal Assistance to State and Local Government, Title I. The total program, State and local portions of revenue sharing, is due to expire September 30, 1980. There is strong House opposition in Congress to its continuation, and the 2nd Session of the 96th Congress will consider its reauthorization or demise. Governor Dalton has expressed strong support to our Congressional members for its continuing reauthorization. LGAC has also supported this position.

No further Committee action is recommended.

5. Elimination of merchants' capital tax with a ceiling on business license rates.

Localities cannot have both taxes and must select one as set forth by § 58-266.1 (5), enacted by the '78 session of the General Assembly.

The Revenue Resources and Economic Commission continues to study and review the business and occupational licenses and merchants' capital tax situation and is considering alternatives. However, this Commission will shortly expire for lack of future State appropriated funds. Their recommendation is to abolish the merchants' capital tax - "not a good tax" - as it encourages the movement of inventory around to lower the tax levied. A revised ceiling on business/professional tax would offer the locality revenue flexibility.

This issue is under study and recommendations will be made at the next session of the General Assembly. Therefore, we recommend that no Committee action be taken.

6. Assumption of Unemployment Insurance Benefits for municipal workers.

This is a federal mandate under PL 91-373, 94-566, and 94-19, passed in 1976 to include local and State employees. The State has no option to this federal law and in 1977 enacted a "Conformity Law," House Bill No. 1929, § 60.1-89.1 and 89.2.

Localities have the option of paying the employer tax outright or being billed for services rendered as a reimburseable employer. VEC reports our localities are divided almost 50-50 on these two options. Each locality, as an employer, must make payments into the Federal Unemployment Trust Fund, or lose the federal contribution credit.

This federal mandate and our State statutes are presently under review by a Senate Committee headed by Senator Peter K. Babalas.

No LGAC Committee action is recommended at this time.

7. Underfunding by State for local facilities such as airports, libraries.

State aid is available to localities on a limited basis and in part depends heavily on local initiative to seek out federal and State matching funds.

The State has no library construction funds but does contribute on a formula basis for library materials to localities. Virginia received in 1973 over \$300,000 in federal funds under Title II of the Library Services and Construction Act. This federal program is no longer funded. Interested localities should contact the State Library.

The Department of Aviation received General Funds for only one year, 1974-75 period. Their operating budget of approximately \$2.4 million is derived from the Aviation Fuel Tax and Aircraft Sales & Use Tax plus federal support. The Federal Aviation Administration (FAA) supports local aviation facilities by grants of 80% with 10% State and 10% local contributions. The State Department of Aviation encourages localities to contact them. Federal and State funds are available to improve local aviation facilities, but not for revenue producing improvements.

Localities are encouraged to inquire about available State aid to the appropriate State agencies. No further Committee action is recommended.

8. Localities must put out bids on all contracts over \$2,500.

This is a relatively new requirement pertaining to the Procurement Laws of the Commonwealth. § 15-1.108, effective 1978, changed the limit on contract bid requirements from \$1,000 to \$2,500, "wherever feasible."

Some localities feel that due to inflation factors and the opportunity to secure better prices through negotiation rather than by the bid process, the present limitation should be adjusted upward.

The LGAC Committee should examine this issue in more detail.

9. Need for more coordination in early stages of large capital projects that affect localities.

State programs involving federal funds and that also require A-95 review are routed to planning district commissions for comment. In many instances State agencies will secure local reaction and approval prior to going through the A-95 review process so that these advance comments become part of the application to the federal funding agency at the initial phase of the review process.

A number of programs, however, are exempt or are not covered under OMB Circular A-95 and, therefore, do not come within the formal State guidelines for review by local, regional or State agencies.

State agencies contacted expressed their opinion that "a lot of information is not getting out to localities." Their comments dealt with the lack of dissemination on future State project projections, such as agency 5-7-10 year plans, and environmental impact clearances which seem to harass local governments who lack staff to provide necessary data. It appeared to them that each State agency was responsible for coordination of their own State Plan (if one was in existence) with other State and local plans provided "they knew of the existence of other plans."

The LGAC Committee should examine the problem of coordination in more depth and recommend appropriate action where necessary.

10. Gross sales tax received by the county on coal should be shared with towns.

The Severance Tax on gross receipts is under § 58-266.1;1 enacted in 1973, and the Coal Road Improvement Tax is under § 58-266-1.2 enacted 1978.

The recent increase to 2% (as of January, 1980) on gross receipts will raise approximately \$3.5 million and one town expressed a feeling it would be only proper to share a portion of this revenue for town operations.

As the Code of Virginia does not address the "sharing" intent as a requirement, the county may at its option use this revenue to improve town roads. The county or city imposing the tax shall establish a coal road improvement advisory committee who has responsibility of submitting an annual plan for road improvements to the governing body for approval.

Since there is no State mandated requirement on local government, it is recommended that the Committee not consider this issue.

11. Business locations excuses a number of service type businesses from securing local licenses.

Under § 58-266.1A (13), effective April, 1978 no local license is required when transactions are between affiliated groups. The term "affiliated group" means one or more chains of includable corporations connected through stock ownership with a common parent corporation possessing certain stock classifications.

This is apparently not a State mandate, as such, but a question of tax policy. The Committee may want to consider this as a tax policy question rather than a mandate.

12. Veto of Bank Stock Tax

§ 58-465 and § 58-485, amended in the '78 session is currently under review by a joint study commission. The Department of Taxation reports that litigation in the courts is now underway to determine what is taxable, what is not taxable, and has raised various issues still undecided.

The Committee has reviewed this issue in the past. No action by the LGAC Committee is recommended at this time due to the above cited legal process now underway.

13. General Assembly nullified its anticipated quarterly return of ABC profits.

The Department of Taxation reports that the above statement is not correct. Localities are getting profits on a quarterly basis.

14. General Assembly set a maximum rate that can be charged as utility tax.

A maximum rate was enacted by § 58-617.2, 1976, and apparently some disagreement arose as to raising the limitation to enable localities to collect additional revenue. The Department of Taxation reports that the overall intent of the General Assembly was against any upward adjustment and that the utility tax was "not the best way to raise revenue."

This is apparently not a State mandate, as such, but a question of tax policy. The Committee may desire to consider this as a tax policy question rather than a mandate.

15. Minimum salary guidelines set by State often higher than comparable city jobs.

According to information received, localities are not encountering any pay scale difficulties with the salary ranges set forth in the State Code for Constitutional Officers, such as the treasurer, commissioner of revenue, and sheriff. Adequate appeal and review procedures set forth in § 14.1-51-52, amended 1979, are effective.

The major problem involves pay scales of personnel employed in Welfare, Probation, Judges offices, General District Court, Juvenile Court, and the deputy sheriffs.

A Uniform Statewide Merit Plan is approved by the State Welfare Board according to wage price guidelines set forth under the Federal Merit System of the Social Security Act. § 63.1-26, amended 1975, and § 63.1-66 refers to the Uniform Pay and Classification Plan and provides to the locality the option of adopting the State Plan or developing a local plan within the minimums set by the State Welfare Board.

Pay scales for court personnel are the result of a survey conducted by the Personnel Office of the Office of the Executive Secretary in the State Supreme Court. The recommendations are made to the Committee on District Courts in accordance with the procedures set forth in § 16.1-69.45, amended 1976. The locality may supplement these salaries which are set by and paid by the State.

A minimum/maximum scale for field deputies, correctional and court security officers is set by State code. Under § 14.1-50, amended 1979, local officials submit to the State Compensation Board their annual budget on or before March 1 preceding the beginning of the fiscal year. The Compensation Board feels there is no imposed mandate on local jurisdictions and that the initial input on salary levels originates at the local level.

There is some implication that the minimum salary levels set by State code and various boards and surveys are causing localities difficulties in adjusting their overall classification and pay plans.

This issue should be presented to the Committee for consideration.

16. The State is required to pay localities 100% of the expenses of the Constitutional Officers. This fiscal year the State will pay only 11 months of expenses incurred.

There appears to be considerable misunderstanding about the recently signed House Bill No. 599 to become effective July 1, 1980.

The major points which need clarification are: (1) only sheriffs and Commonwealth attorneys are covered by this revision, not all Constitutional Officers; (2) the State will not cover 100% of all expenses, only those approved by the Compensation Board and within the limits of available General Funds appropriated by the General Assembly; and (3) the formula to reimburse towns with five or more policemen is still under consideration by the State. § 14.1-84.1, Article 10 for towns and cities (police) was amended by the above House Bill.

Reimbursement by the Compensation Board to the locality is prompt and any laxity is considered due to late submission by the governing body of the required invoices or prescribed forms.

No further Committee action is recommended.

17. Implementation of State mandated Personnel and Classification Plan.

§ 15.1-7.1 enacted in 1974 requires localities that employ more than 15 persons to establish a grievance procedure and personnel system including a Classification Plan for service and uniform pay plan for all employees including certain employees and deputies at the discretion of the governing body.

Failure to comply with any provision of this section shall cause the grievance procedure adopted by the Commonwealth to be applicable. The State does not review, suggest, or set requirements on the classification and pay plan of any locality.

Since the issues are mandated State salary scales, the Committee will consider this issue with question 15 above.

18. Local retirement systems must provide benefits "substantially comparable" to benefits of VSRS.

§ 51-111.31 (b), enacted July 1, 1977 states that local systems must be comparable to benefits of VSRS. There are 11 local retirement systems involved with this code section.

A study named "PERISA" is investigating a proposed federal mandate on State and local retirement systems. This proposal would cover mainly special reporting procedures to the federal government rather than mandatory fiscal requirements.

Some localities are finding that the administration of their own retirement system is burdensome. An alternative is to join the State VSRS program.

No Committee action is recommended.

19. Virginia Workmen's Compensation Regulations

Localities are required to provide benefits to employees who suffer job related injuries, illnesses or disabilities. § 65.1, enacted in 1919, has seen many amendments. In 1972 special benefits were provided to firemen. In 1973, law enforcement officers were given similar benefits. In 1976, respiratory disease, hypertension, and heart disease disabilities were brought under workmen's compensation. There are no federal mandates.

A problem exists for localities in projecting actual costs of these expended benefits over a long period of time. A recent court decision has opened the door to additional expense for the localities on disability claims which are job related.

The House Committee on Labor and Commerce has taken the problem of Workmen's Compensation under study.

This is an issue that the LGAC Committee may desire to examine in more detail.

20. Required to purchase additional voting machine for each polling place, the necessity of which is questionable.

§ 24.1-203 states that the number of voting machines depends on the number of voters in the precinct. The amendments became effective in 1972 for cities and optional form counties, and in 1976 for other counties. The requirement is one machine for every 750 voters. The previous minimum was one machine for 500 registered voters. The State agency contacted stated that at least one machine for every 600 was a bare minimum for efficient operation to avoid long lines due to heavy polling in the morning and evening hours. Voting machines may be purchased, leased, leased purchased, or otherwise acquired.

It is recommended the Committee consider this issue.

**STATE MANDATED PROGRAMS - LOCAL GOVERNMENT ADVISORY COUNCIL
COMMERCE AND RESOURCES**

November 1, 1979

P. 1

Planning District Commission One

Problem	Mandated Program	Agency Comments	Committee Decision
<p>1. Enforcement of Soil Erosion and Sediment Control Ordinance (Scott County, Ms. Billie T. Lynch, County Administrator)</p>	<p>Local Erosion and Sediment Control Programs - mandated in §21. 89. 5 of the Code of Virginia, 1973.</p> <p>The General Assembly responded to the problem of funding local erosion and sediment control programs by amending the law to allow localities to charge plan review and permit fees to cover the cost of program administration. A 1976 amendment (§21-89. 5e) placed the maximum fee at \$25. This was increased to \$150 in 1978. The General Assembly apparently wants the local programs to be financed by revenue from permit fees. No state funding has been proposed or considered.</p>	<p>Counties should utilize the services of conservation districts for plan review and approval assistance. (In Scott County, the assistance of the Federal Soil Conservation Services is available through the Natural Tunnel Soil and Water Conservation District.)</p> <p>Increase plan review or permit fees to cover a greater portion of the administrative costs. (Scott County charges \$10 for first acre plus \$5 for each additional acre of disturbed land.)</p> <p>Local building inspectors who are given the responsibility of reviewing plans and permits should be sent to training seminars conducted by the Virginia Soil and Water Conservation Commission or local community colleges.</p> <p>The Virginia Soil and Water Conservation Commission will conduct an administrative review of any local program upon request.</p>	

**STATE MANDATED PROGRAMS - LOCAL GOVERNMENT ADVISORY COUNCIL
COMMERCE AND RESOURCES**

Planning District Commission One

November 1, 1979

Problem	Mandated Program	Agency Comments	Committee Decision
<p>2. Enforcement of the Uniform Statewide Building Code. (Scott County, Ms. Billie T. Lynch, County Administrator)</p>	<p>Uniform Statewide Building Code - mandated in §36-97 and following of the Code of Virginia. As stated in §36-101 this law is to be effective no later than September 1, 1973.</p> <p>§36-105 requires that each local government establish a building department or contract for the enforcement of the Building Code within their jurisdiction and permits local governments to establish such fees as may be necessary to defray the cost of enforcement of the Building Code.</p>	<p>Counties are not responsible for Code enforcement in towns unless the town contracts with the county to carry out the enforcement.</p> <p>Building permit fees are established locally and are based upon what is considered reasonable rather than to generate sufficient revenue to offset the costs of enforcement. Often general revenue funds are used to help support the local building department.</p> <p>Two possible alternatives, if a change is considered:</p> <ul style="list-style-type: none"> a) State assumption of the responsibility b) State share the cost - which would require developing a formula for aid distribution. <p>Department of Housing and Community Development supports a continuation of local enforcement of the Building Code. A formula allocation of State aid and monitoring local permit fee structures would not be beneficial to local governments.</p>	

STATE MANDATED PROGRAMS - LOCAL GOVERNMENT ADVISORY COUNCIL
COMMERCE AND RESOURCES

November 1, 1979

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Planning District Commission One Problem	Mandated Program	Agency Comments	Committee Decision
3. Overregulation of the State Water Control Board and the State Health Department.			
a) Certification of Operators for Class I water plant (Town of Big Stone Gap, Mr. George Ferrell, Manager)		Referenced water plant is under the State Health Department's jurisdiction. Certification requirements by State regulatory agencies are based on need to provide successful, safe, public-health-protective operations. The enforcement policy of the Water Control Board regarding operators at water plants is not strict and training is available for operators at a nominal cost at many community colleges.	
b) Abingdon office goes too much by the book and wants everything in writing, etc. (Town of Wise, Mr. Larry Crouch, Manager)		Referenced specific objections appear to be directed at the State Health Department. The Water Control Board would like more details.	
c) Must construct a sediment pond for backwash filter water system (Town of St. Paul, Mr. Dennie Long, Manager)	Federal Clean Water Act	Temporary relief is available through the procedure adopted by the Water Control Board for extending the final implementation date to July 1, 1984. Permanent relief would come through amendments to the Federal Clean Water Act, which is unlikely.	

STATE MANDATED PROGRAMS - LOCAL GOVERNMENT ADVISORY COUNCIL
 COMMERCE AND RESOURCES

Mandated Program	Agency Comments	Committee Decision
<p>Water Pollution Control Commission State should provide grants to local recreation projects of cost of local recreation (Town of St. Paul, Manager)</p>	<p>If the Water Control Board did not administer and enforce discharge permits, EPA would. This, according to the Water Control Board, would not be in the best interest of the State. Fines for violations are imposed by the Board on local governments, not on employees unless they have falsified records. Fines are not imposed by the Board on those municipalities that are making good faith efforts to comply with permits. Threats of heavy fines have not been made, although it has been stated that continued violation of the Town's discharge permit would result in enforcement action against the Town.</p>	<p>There are no State or Federal mandated programs that require localities to provide a park or recreational program.</p>
<p>State should provide grants to local recreation projects of cost of local recreation Mr. Dennis Long, (Town of St. Paul, Manager)</p>	<p>If a locality requests funds and the Commission of Outdoor Recreation agrees to the request, then certain Federal mandates apply. As mandated by Federal law, only 50% of the cost of the project can come from Federal funds. From 1968 until 1976, the State provided an additional 25% of the cost. The Commission of Outdoor Recreation has requested \$3.8 million from the General Assembly for the 1980-82 biennium budget in order to reinstate this activity.</p>	<p>There are no State or Federal mandated programs that require localities to provide a park or recreational program.</p>

**STATE MANDATED PROGRAMS - LOCAL GOVERNMENT ADVISORY COUNCIL
COMMERCE AND RESOURCES**

November 1, 1979

Planning District Commission One Problem	Mandated Program	Agency Comments	Committee Decision
<p>5. More cooperation from State Water Control Board. Town borrowed money, paying interest, because of failure to reimburse for sewer system. (Town of Pound, Mr. Dan Price, Manager)</p>		<p>The State Water Control Board has recently acted to correct the problem of payments. This could have been done earlier had the Board been notified directly. Grant payments are not automatic, but are made only on recipient's request for payment and his showing that the funded work has been accomplished.</p>	

State Class Size Mandate

The General Assembly enacted in 1976 a class size standard for grades 1-3, causing school divisions to employ more teachers for each 1,000 students.

In 1977, the General Assembly revised the class size standard and mandated that the average number of first, second, and third grade students in ADM per certified classroom teacher in each such grade in each school division, and the maximum number of such students in ADM per certified classroom teacher in any one classroom shall not exceed the following:

<u>School Year</u>	<u>School Division Average</u>	<u>Classroom Maximum</u>
1978-79	26	31
1979-80	25	30
1980-81	24	29
1981-82	23	28
1982-83	22	27

No kindergarten classroom shall have more than 25 students in ADM per certified teacher.

This mandate became effective on July 1, 1977.

Secretary of Education Recommendation

The Local Government Advisory Council has already voted to support a resolution submitted by the Administration and Finance and Education Subcommittees that would support the State Board of Education's proposed revision in the class size standard. Therefore, the Education Subcommittee does not need to take further action on this particular mandate.

State Kindergarten Mandate

The Standards of Quality approved by the General Assembly in 1972 required those school divisions which did not provide a kindergarten program to develop a plan to provide such a program by the end of the 1972-74 biennium. Additionally, the plan had to include a date acceptable to the Board of Education indicating when the kindergarten program would be implemented.

The 1974 Standards of Quality required local school divisions to have in place a kindergarten program by September, 1976.

Secretary of Education Recommendation

The mandate related to kindergarten programs has been in existence approximately 8 years. It seems to me that most school divisions have had sufficient time to prepare for kindergarten programs, which can be offered on a half-day basis or whole-day basis.

I would recommend that the Education Subcommittee take no action regarding this mandate and suggest that this particular school division (Lee County) work with the State Board of Education to resolve whatever problems it might have regarding its kindergarten program.

State Special Education Mandate

Virginia mandated special education for exceptional children, including the gifted, in the Standards of Quality enacted by the General Assembly in 1972. However, the federal government mandated education for all handicapped children in 1975. The Federal law is more prescriptive than Virginia's 1972 mandate.

In 1978, the General Assembly passed House Bill 959, which made Virginia's laws concerning handicapped children congruent with the Federal law. Therefore, the education of handicapped children is mandated by State and Federal laws.

Secretary of Education Recommendation

To alleviate some of the problems in this area, the Education Subcommittee could support regional or cooperative programs and additional funding by the Federal government.

At the last meeting (October 4, 1979), the Education Subcommittee asked my staff and the Department of Intergovernmental Affairs' staff to develop a resolution that would support 75% funding from State and Federal funds and 25% from local government. At present, handicapped education programs are funded 50% from the local and 50% from State and Federal.

School Construction

With respect to school construction, the State does not appropriate funds for this purpose. However, local school divisions can borrow from the Literary Fund for building construction.

Secretary of Education Recommendation

Unless it can be demonstrated that the General Assembly and the Executive Branch are willing to make a major change in policy at this time, I would recommend that this issue be studied to determine the national trend and the fiscal impact it would have on the State.

CITY OF WINCHESTER

Standards of Quality Mandate Related to Central Office Staff

There is no longer a State mandate requiring one person to be added to the superintendent's office for administration only and one supervisory person for each fifty instructional personnel employed. A local school division can hire according to its needs within the forty eight professional personnel per one thousand students.

Secretary of Education Recommendation - No action should be taken.

Special Education

See response attached to October 11 memorandum.

Reimbursement for Sick Leave

The cost related to sick leave for teachers has been included as part of the total cost per pupil.

Secretary of Education Recommendation - No action should be taken.

Social Security Cost

In 1975-76, social security payments made by the State to local school divisions were limited to forty eight professional personnel per one thousand students in ADM and limited to the annual average salary established by the State Board of Education. However, the General Assembly limited social security payments for the 1979-80 fiscal year to fifty eight professional per one thousand students in ADM, with a limit on salaries not exceeding \$12,341. This represents an increase in State payments over 1975-76.

The same type of change was made concerning teacher retirements payments.

Secretary of Education Recommendation - No action should be taken.

Kindergarten Program

See response attached to October 11 memorandum.

VIRGINIA MUNICIPAL LEAGUE

Social Security and Retirement Benefits

See response under City of Winchester.

Gifted and Talented

Gifted and talented funds have not become part of the basic aid payments. Reimbursement is based on three percent of the total number of students in ADM at fifty dollars per student. In-Service education has become part of the basic aid payments.

Secretary of Education Recommendation - No action should be taken

Special Education

See response attached to October 11 memorandum.

CITY OF VIRGINIA BEACH

Full-Day Kindergarten

Various groups seem to be divided on the issue of full-day kindergarten and half-day kindergarten. At the present time, the State Department is determining what the fiscal impact might be on local school divisions. Once this information is known, along with the kindergarten subcommittee's rationale for full-day kindergarten, the subcommittee on education can then take an appropriate stance.

HUMAN RESOURCES ISSUES & MANDATES

<u>Issue</u>	<u>Mandated By</u>	<u>Effective Date</u>	<u>Agency Comments</u>
Child Protective Services	State Law § 63.1-248.1 to § 63.1-248.17	6/1/75	
Special Needs Adoption		7/74	Optional Program § 63.1-238.2
Title XX-Purchase of Services		10/75	This is not a mandate; it is a means by which localities may provide social services rather than providing such services directly.
Food Stamp Outreach Program	Federal Food Stamp Act--P.L. 93-113	10/29/77	
Minimum Salary Guidelines & Caseload Standards	State Law § 63.1-25 and § 63.1-66	1950	
Foster Care Standards	State Law § 63.1-25 and § 63.1-55	1950 and 10/22/75	
Protective Services to Adults		1974	Optional Program under Title XX and State Law, § 63.1-55.1
Work Incentive Program	State Law § 63.1-91 and 92	1974	
Local Funding of Welfare Costs	State Law § 63.1-91 and 92	1950	
Underfunding of MH&MR Services in Winchester Area	Chapter 10, Title 37		Not certain of the concern--funding ratio is 70% State and 30% Local in this area.

<u>Issue</u>	<u>Mandated By</u>	<u>Effective Date</u>	<u>Agency Comments</u>
Cost of Commitment for MH&MR Programs in Shenandoah County	State Law § 37.1-89		Department of MH&MR has been appropriated money in this biennium to absorb the \$25 for each commitment; no locality is required to pay this now.
Concern about Substance Abuse requiring local Chapter 10 Board to be administering agency for local substance abuse programs			This is encouraged but not required. Some local substance abuse programs receive money directly. The Department encourages Chapter 10 administration to strengthen service delivery and integration.
Drinking Water Regulations	-P.L. 93-523, Safe Drinking Water Act	12/16/74	Congress enacted and the President has approved several environmental laws; this is but one. Virginia has qualified to administer the federal law, preventing federal enforcement.
	-Federal Regulations ·Interim Primary Drinking Water Regs.	6/24/77	
	·National Secondary Drinking Water Regs.	7/19/79	
	·State Public Water System Supervision Program Grant	1/20/76	
	-State Law § 32.1-167 to 176	1974 amended 1974	
	-State Regulations	5/74	" "
Sewage or Wastewater	-Federal Law ·Federal Water Pollu- tion Control Act P.L. 92-500	10/18/72	
	-State Law ·§ 32.1-163 thru 665 ·§ 62.1-44.18 and 19	1979 (amended)	(Health) (State Water Control Law)

<u>Issues</u>	<u>Mandated By</u>	<u>Effective Date</u>	<u>Agency Comments</u>
(Sewage or Wastewater Cont.)	-State Regulations	2/77	Jointly with State Water Control Board
		7/1/71	Small systems and on-site disposal or systems not supervised under State Water Control Law
Solid Waste	-Federal Law		
	·Resource Conservation & Recovery Act, P. L. 94-580	10/21/76	
	-Federal Regulations & Guidelines		
	·Landfill Disposal of Solid Waste-Guidelines 40 CFR 241	3/26/79	Based on Section 1008(A)(1) of the Federal Law
	·Criteria for Classifying Solid Waste, Disposal Facilities & Practices 40 CFR 257	9/13/79	Based on Section 4004(A) of the Federal Law
	·Guidelines for Development & Implementation of Solid Waste Mgmt Plan 40 CFR 256	7/31/79	Based on Sections 4002 & 4003 of Federal Law
Hazardous/Toxic Waste Regulations	-Federal Regulations		
	·Hazardous Waste Identification & Listing 40 CFR 250.1	12/18/78	Based on Section 3001 of Resource Conservation & Recovery Act (RCRA) P.L. 94-580; Regulations to be re-proposed in April, 1980.
	·Hazardous Waste Standards for Generators 40 CFR 250.2	12/18/78	RCRA, Section 3002; to be re-proposed in February, 1980.
	·Hazardous Waste Standards for Transporters 40 CFR 250.3	4/28/78	RCRA, Section 3003; to be finalized February, 1980.

<u>Issues</u>	<u>Mandated By</u>	<u>Effective Date</u>	<u>Agency Comments</u>
(Hazardous/Toxic Waste Regulations Cont.)	•Standards for Hazardous Waste Treatment Storage & Disposal Facilities 40 CFR 250.4	12/18/78	RCRA, Section 3004; to be repropoed April, 1980.
	•Consolidated Permit 40 CFR 122-124	6/14/79	RCRA, Section 3006
	•Designation of Hazardous Substances	2/16/79	Federal Water Protection Control Assoc. Sections 311 and 501(A)
	•Polychlorinated Biphenyls (PCB) 40 CFR 761	5/31/79	Toxic Substance Control Act, Sections 6, 8, and 12
	•Transportation of Hazardous Waste Materials 49 CFR 171-177	Proposed 5/25/78	
	-State Law § 32.1, Solid & Hazardous Waste Management	4/79 Amended	
	-State Regulations Rules & Regulations Governing Disposal of Solid Waste	4/71	
	-State Plan Solid Waste Management Plan	4/24/79	Adopted by Board of Health

PUBLIC SAFETY ISSUES AND MANDATES

ISSUE	MANDATE BY	EFFECTIVE DATE	SUGGESTIONS FOR HANDLING
Mandatory Training for Criminal Justice Personnel	State Law - Title 9 Chapter 16, 9-109.1 thru 9-111.2 Administered by Criminal Justice Services Commission	July 1, 1976	<ol style="list-style-type: none"> 1. State provides funding for operation of training academies (currently in Addendum Budget). 2. Location of Academies and satellites in areas where training can be obtained in least disruptive manner. 3. Examine curriculum to see if course and hour requirements can be modified or redirected. 4. Recognize special problems that small units have in providing coverage and meeting mandatory training requirements.
Standards for Construction and Operation of Correctional Facilities	State Law authorizes Board of Corrections to prescribe minimum standards for construction and operating of jails, jail farms and lock-ups. (Title 53-133 and following. Standards are set by Board and enforcement by Department of Corrections.	July 1942	<ol style="list-style-type: none"> 1. Introduction of Legislation to increase amount of reimbursement available to localities for construction. 2. Encourage regional cooperation in establishment of jails. 3. HB 599 will provide proportionate funds for operations costs and salaries of Sheriff Departments as determined by the Compensation Board (7-1-80).
Locality finances entire cost of police protection for cities and towns	State Law - Title 14.1-68 and following	July 1973	<ol style="list-style-type: none"> 1. Enactment and funding of HB 599 will provide relief to this problem.
Standards for operations of juvenile court service units and probation	State Law Title 16.1-233	July 1973	<ol style="list-style-type: none"> 1. Present law provides for a locally operated juvenile court service to become State operated as provided by Title 16.1-235. Increased awareness of this option should be made.

MANDATED PROGRAMS
DEVELOPED IN PLANNING DISTRICT NUMBER ONE

TRANSPORTATION COMMITTEE

All programs are State mandated.

1. State Highway standards regarding subdivisions. (Scott County, Ms. Billie T. Lynch, County Administrator).

RESPONSE: Scott County - Item No. 3 - Commission Policy

A Highway and Transportation Commission subcommittee is currently in the process of reevaluating the Department's requirements regarding subdivision streets. A final public hearing was scheduled for October 26, 1979, to discuss proposed amendments, after which the Commission will take final action as it deems appropriate. Geometric standards in mountainous terrain is one of the specific items under consideration.

2. Highway allocations based on criteria other than demonstrated need for street maintenance. (Town of Wise, Mr. Larry Couch, Manager; Town of St. Paul, Mr. Dennie Long, Manager; Town of Appalachia, Mr. Gene Brooks, Manager).

RESPONSE: Town of Wise - Item No. 3 - Law

The Town of Wise took over their streets on April 1, 1977 in accordance with Sections 33.1-41 and 33.1-43 of the 1950 Code of Virginia, as amended. Section 33.1-43 requires that there must be a 50 foot right of way and a 30 foot pavement if the street is established after July 1, 1950. The law was adopted in 1950 by the General Assembly for all municipalities which receive payments under this section regardless of geographic location. These requirements apparently have served the people well from a public safety and service standpoint.

The Department provides not only for 18 foot pavement but also up to 4 lanes divided on roads which it maintains. It does not seem prudent to select a given slope (22°) as the break point. It seems arbitrary.

The subdivision ordinances of many municipalities are based on this law as a minimum. It appears that a change would require considerable study.

Not Applicable

The Town of Wise is referring to a Bypass from Route 23 South to Park Avenue. The transportation plan is in the process of being approved. The detail location and design has not been started. A project of this magnitude will require time for planning, acquisition of right of way, and funding. The normal time for a project such as this is seven to ten years.

Response: Town of Saint Paul - Item No. 2 - Law

Since the Town of Saint Paul operates under Section 33.1-79 of the Code of Virginia, it is allowed to take over one-quarter mile per year of street additions for improvement and maintenance similar to the circumstances under which counties take in rural additions. In the Town of Saint Paul, this one-quarter mile per year amounts to approximately 7% of the town's existing 3.5 miles.

Commission Policy

On a percentage basis, this is considerably more than the permissible 1½% of rural addition mileage under the Commission's policy for the county proper. Thus the towns operating under 33.1-79 are getting a better break with regard to additions within their boundaries than do the counties themselves.

Not Applicable

With particular regard to Saint Paul, our records indicate that this town did not request any addition during fiscal year 1978-79. This could be a part of their problem.

Possible Law

One possible inequity is that the streets constructed to full standards still must count against the one-quarter mile eligibility, whereas there is no limit to the mileage of subdivision street additions within the counties. Therefore, it may be logical to consider an amendment to the law that would also allow unlimited additions of streets built to full standards similar to the Department's policy on subdivision streets within the counties.

Law

As to the amount of funds going to the towns in comparison to the counties, this is a point of conjecture, and it may well vary greatly from one area to another, depending upon the county officials' attitude toward the town in question. Since these towns are an integral part of the county and Section 33.1-70.01 expressly stipulates the role of the board of supervisors or other governing body of each county, it boils down to the question of the degree of influence that the various town officials can exert upon the respective county officials. It would not seem feasible to allocate improvement funds expressly to the towns and apart from the county allocations.

3. Cooperation with Highway Department not as good since reorganization. (Town of St. Paul, Mr. Dennie Long, Manager).

RESPONSE: Town of Saint Paul - Item No. 3 - Law

This seems to be a spin-off of No. 2 above. Certainly it is in error to say that the resident engineer has no authority. He still has authority to the extent of representing the Department in the joint cooperative effort stipulated under 33.1-70.01 in the six-year plan and budget development.

Not Applicable

We do not know of any "reorganization with VDH&T district offices" that has diminished the responsibilities of the resident engineers, especially in regard to his dealings with the local authorities. The cooperative effort mentioned above with regard to the Code simply gives the governing body an equal voice in the development of the Department's plans and budgets for construction on the Secondary System. This program has been in effect only about two years and it appears to be entirely acceptable to a large majority of the local governments.

4. Towns should be included in highway planning process. (Town of St. Paul, Mr. Dennie Long, Manager).

RESPONSE: Town of Saint Paul - Item No. 4 - Not Applicable

This seems to be an extension of items 2 and 3 above. While the towns have no official authority in the final plan and priority list, they have the opportunity to express their desires at the public hearings. They also have a certain degree of direct representation on the boards of supervisors by virtue of the fact that they comprise a certain portion of the constituency of one of the supervisors on the county board.

The reference to inflation is not limited to improvements within the towns, and the town's role or lack thereof would not appear to be an influence on the degree of inflation. The Department certainly is subject to the same factors statewide as pointed out by the town regarding construction costs and has constantly advocated streamlining of the procedures, both state and federal, at every opportunity.