
2005 GENERAL LAWS POLICY STATEMENT

The basic purpose of local government is to provide essential services and protection for the community that citizens cannot provide for themselves. Local governments should decide which services and programs are of primary importance to the community. Virginia has hamstrung its cities, counties and towns with 19th-century legislation. The financial ability of municipalities to survive is threatened.

I. EFFECTIVE GOVERNMENT

GOVERNMENT STRUCTURE

The General Assembly should allow significant diversity among municipal charters and not impose uniformity.

The Virginia Municipal League supports the General Assembly's provision of financial incentives to promote governmental consolidation and cooperative agreements among local governments.

Towns should retain the right to annex lands. Towns over 5,000 population should have the right to become an independent city; and cities should have the right to revert to town status.

The Governor and General Assembly must continue to live up to their statutory obligations associated with law enforcement funding, or HB 599 funding. The creation of this funding source was an integral part of the annexation package adopted in 1979.

VML supports equal taxing power of counties and municipal corporations.

The General Assembly should devise a means of promoting or facilitating, among all local governments involved, sharing of the economic, social, cultural, fiscal and educational benefits and burdens of urbanization.

The addition of sub-state and special district governments should be controlled. New districts should not be created unless services cannot be furnished by local

governments. In addition, no sub-state districts, including planning district commissions, should be granted real or quasi-legislative authority or undertake other functions except when expressly directed by their member jurisdictions, including those towns not directly represented in the entity.

VML urges a careful review of the statutes concerning consolidation of local governments; to ensure (a) that citizen-initiated petitions are signed by a reasonable number of affected citizens who reside in the jurisdiction, and (b) adequate periods of time elapse between consolidation and/or annexation actions.

INTERGOVERNMENTAL ISSUES

Local governments have a vital role in the Commonwealth. They must have sufficient powers and flexibility to meet this role. The General Assembly should adopt legislation to promote and expand, to the extent necessary, municipal powers, to (a) enhance the ability of local governments to provide services required by their citizens, and (b) allow local governments to meet their responsibilities in state/local partnerships. VML opposes intrusions into the way local governments conduct their business, including:

1. meetings of governing bodies;
2. purchasing procedures;
3. those matters that can be adopted by resolution or ordinance;
4. procedures for adopting ordinances; and

1 5. procedures for filling vacancies on
2 governing boards.
3
4 State intervention in local affairs is only
5 warranted in matters of greater than local
6 significance. In addition, no changes should
7 be made in the laws affecting local
8 government without substantial local input
9 from affected jurisdictions and participation
10 in developing those changes.

11
12 VML opposes legislation that:

- 13 • bars courts from awarding attorney's
14 fees to local governments when a
15 frivolous suit is filed;
- 16 • eliminates the notice of claim
17 requirement found in the *Code of*
18 *Virginia*, § 8.01-222.

19
20 Membership on all state and regional
21 commissions or committees dealing with
22 matters affecting local governments should
23 include local officials who represent a
24 demographic and geographic cross-section
25 of counties, cities, and towns.

26
27 The federal and state governments should
28 not use their funding of projects as a means
29 of forcing local land use decisions in
30 contravention to local land use plans. These
31 actions violate the principles of local home
32 rule and weaken the local tax base.

33
34 VML supports legislation to transfer
35 responsibility from local governments to the
36 state government for the liability,
37 administration and cost of community
38 service options for persons upon whom
39 court costs and fines are levied.

40 41 **TOWNS**

42 The General Assembly and the executive
43 branch should recognize towns as essential
44 units of local government, with important
45 roles in providing services. Towns should
46 have clear and full authority to act in a

47 timely manner on matters which protect
48 public health, safety, and welfare.

49
50 The General Assembly should scrutinize
51 bills dealing with laws of general
52 applications to local governments, to avoid
53 enacting any laws that would be sources of
54 possible conflicts between counties and
55 towns. The following list provides
56 examples of conflicts between towns and
57 counties exacerbated by legislative action:

- 58
59 a. taxation of town residents by county
60 governments at the same rate as that
61 applied to those living in the county's
62 unincorporated areas, when comparable
63 benefits and services are not provided;
- 64 b. county imposition of a merchants'
65 capital tax on businesses located within
66 the town at the same rate as that applied
67 to businesses located in unincorporated
68 areas of the county, when the town
69 levies a business, professional and
70 occupational license tax;
- 71 c. unequal town zoning and planning
72 authority for land straddling or abutting
73 town corporate boundaries and
74 unincorporated county areas;
- 75 d. the funding of county sheriffs' and
76 deputy sheriffs' salaries by the State
77 Compensation Board and other state-
78 funded amenities not provided to town
79 police departments; and
- 80 e. the unequal statutory authority of towns
81 in relationship to that of cities and
82 counties.

83 84 **STATE AND FEDERAL MANDATES**

85 The state and federal governments must
86 provide adequate funding for any local
87 programs or responsibilities that are
88 mandated or expanded by state and federal
89 laws or regulations.

90
91 Federal and state mandates must be reduced
92 when funding is reduced, so that localities
93 are not required to spend additional local

1 dollars to comply with the mandates.
2 Further, funds should be distributed in the
3 most efficient way possible with the least
4 regulatory control.

5
6 The Governor and General Assembly should
7 promote state-local partnerships by
8 requiring:

- 9 1. A review of mandates in specific
10 program areas to (a) establish the full
11 cost to local governments of
12 implementing mandates and (b) develop
13 an appropriate basis for determining
14 state-local funding responsibilities.
- 15 2. Completion of cost estimates for
16 proposed legislation prior to its first full
17 review by a legislative committee, with
18 legislation negatively affecting local
19 governments' revenue-raising ability
20 being submitted to the COLG for a fiscal
21 impact analysis.
- 22 3. A performance-based approach to
23 mandates that (a) focuses on outcomes,
24 (b) offers incentives for achieving state
25 objectives, and (c) gives local
26 governments autonomy to determine the
27 best way to achieve the desired result.
- 28 4. Simplified state reporting requirements
29 associated with mandates eliminating
30 nonessential information and
31 duplication, coordinating state deadlines
32 for information submittal, and making
33 better use of reporting technology.

34
35 The alarming tendency of state and federal
36 agencies to treat guidelines authorized by
37 enabling legislation as having the stature of
38 law itself should cease. In addition, the state
39 should avoid unessential and arbitrary
40 implementation of federal regulations.

41 42 **STATE AND LOCAL** 43 **RESPONSIBILITIES**

44 The state requires local governments to
45 provide certain services - education,
46 corrections, social services, health and
47 community mental health. The local

48 government does not have the option of not
49 being the state's service provider in these
50 areas. "State aid" to localities is the state's
51 payment for the implicit contractual
52 arrangement for this assignment of duties.
53 In addition, local governments have to
54 contribute local funding to these services.

55
56 In addition to the state-mandated services,
57 localities provide other services that are
58 either necessary (water and sewer, police
59 and fire protection, etc.) or desired by local
60 residents (parks and recreation, cultural
61 activities, etc.). Local governments need the
62 flexibility and resources to collect revenues
63 to meet these local responsibilities.

64
65 Two fundamental problems in Virginia's
66 intergovernmental structure are first, the
67 state does not fund adequately existing
68 services, particularly education, that it
69 requires local governments to provide; and
70 second, local officials have very limited
71 revenue options, which forces them to rely
72 heavily on real estate, personal property
73 taxes and other local revenue sources to pay
74 for services.

75
76 Further, to improve the relationship of the
77 state and local governments, the state should

- 78 1. Not restrict the taxing authority and
79 revenue sources of local governments
80 without local concurrence.
- 81 2. Strengthen the partnership of the state
82 with local governments by granting full
83 authority to deal effectively with social
84 problems.
- 85 3. Participate as a financial partner with
86 local governments in the costs of
87 education, including school construction
88 and renovation, and, as an active partner,
89 fully fund the state's fair share of the
90 costs of education.
- 91 4. Follow specific procurement procedures
92 before purchasing property, including
93 adequate inquiry into the purchase,
94 public hearings and notice, and notice of

1 intent to settle sent to the locality. In
2 addition, the state should consider
3 remuneration to the locality for the loss
4 of real estate taxes as well as any loss in
5 economic development potential.
6

7 The General Assembly should continue its
8 involvement with and financial support of
9 the Virginia Institute of Government.
10

11 **FREEDOM OF INFORMATION**

12 VML strongly supports the free flow of
13 information to citizens and the media
14 through the conduct of governmental affairs
15 at all levels in the open, in good faith
16 compliance with the Freedom of
17 Information Act. VML also supports efforts
18 to educate local government officials about
19 the Act, and the importance of extensive and
20 accurate reporting of government affairs.
21

22 The public has a right to have information
23 about itself protected. Government also has
24 to be able to control its work processes so
25 that public business can be conducted. It is
26 in the public's interest to conduct some
27 matters outside public view prior to official
28 action. Accordingly, VML strongly opposes
29 extending limitations on closed meetings
30 and exempt records, which would upset the
31 act's careful balance among a fully informed
32 public, the protection of individuals'
33 privacy, the ability of government to
34 conduct its work and those matters for
35 which the premature release would not be in
36 the best interest of the locality or its citizens.
37

38 In addition, localities should be able to
39 continue charging reasonable fees for any
40 and all records, including for research time
41 and for computer records that must be
42 provided under the Act.
43

44 VML opposes legislation to limit the use of
45 any legitimate means of communications
46 from one elected official to others, including
47 letters, emails and conversation.

48 49 **GOVERNMENTAL & MUNICIPAL** 50 **OFFICIAL LIABILITY**

51
52 VML calls upon Virginia's congressional
53 delegation to support legislation to restore
54 suits brought under 42 U.S.C. Section 1983
55 to traditional civil rights actions, and to
56 preclude the award of damages if the court
57 finds that the government or its officials
58 were acting in good faith.
59

60 Expanding liability and eroding immunities
61 at the state level across the nation have had a
62 chilling effect on the actions of local
63 government officials contributing to local
64 government insurance problems, creating
65 immense financial risks (particularly for
66 legal costs), and posing a substantial
67 obstacle to the provision of needed public
68 services.
69

70 The Virginia General Assembly should
71 strengthen the principles of sovereign
72 immunity for local governments and their
73 officials.
74

75 VML strongly opposes bringing local
76 governments under the Virginia Tort Claims
77 Act. This action would seriously erode the
78 sovereign immunity now enjoyed by
79 Virginia local governments and lead to a
80 substantial increase in frivolous suits.
81

82 The tort reparations system in the U.S.
83 creates many difficulties in the
84 administration of justice. VML supports
85 efforts at the national and state levels to
86 address tort reform, such as limitations on
87 the tort liability of local governments in
88 areas where local governments do not enjoy
89 sovereign immunity.
90

91 The General Assembly should adopt
92 legislation to codify the proposition that real
93 property of local governments shall be
94 exempt from liens created by statute or

1 otherwise. This proposition has already
2 been recognized by the Virginia Supreme
3 Court for mechanics liens.

4
5 **PERSONNEL**

6 Management has the responsibility to ensure
7 that employment, training, and promotional
8 opportunities are provided without regard to
9 race, creed, sex, national origin, age, or any
10 other factors not related to job performance.

11
12 VML supports:

- 13 • an equitable heart/lung/cancer
14 presumption statute as was the intent of
15 the original legislation. Compensibility
16 should be determined by establishing
17 whether work or non work related risk
18 factors are more likely the primary cause
19 of the claimant’s condition. Additional
20 employee classes and/or medical
21 conditions should be added only when
22 supported by credible medical evidence.
- 23 • the current injury by accident definition
24 in the Virginia Workers’ Compensation
25 Act.
- 26 • the current Workers’ Compensation Act
27 provisions for use of an employer
28 selected panel of physicians to treat
29 injured workers.
- 30 • maintenance of the exclusive remedy
31 provisions of the Virginia Workers’
32 Compensation Act.
- 33 • local governments’ authority to establish
34 hours of work, salaries and working
35 conditions for local employees.
- 36 • Legislation to allow the Virginia
37 Retirement System to offer political
38 subdivisions, at their option, the
39 opportunity of participating in the
40 Virginia Sickness and Disability
41 Program. Because of the intensive
42 administrative requirements associated
43 with the transition to the VSDP, the
44 opportunity to participate in the program
45 would have to be phased in over a
46 number of years.

47
48 VML opposes:

- 49 • any attempt to impose collective
50 bargaining or ‘meet and confer’
51 requirements for public employers or
52 employees.
- 53 • any attempt by the federal government to
54 stipulate grievance procedures for state
55 and local employees, such as the police
56 officers bill of rights.

57
58 VML supports the creation of a legislative
59 study commission to undertake a
60 comprehensive examination of issues
61 associated with the Virginia Retirement
62 System. The commission should seek the
63 input of local officials through creation of a
64 local advisory group.

65
66 **TELECOMMUNICATIONS, LOCAL
67 GOVERNMENT PRINCIPLES**

68 VML sets forth the following principles to
69 guide any state legislative action regarding
70 telecommunications issues.

- 71
72 a. Public Rights-of-Way. Local rights-of-
73 way are public property. The rights-of-
74 way contain numerous utility and other
75 facilities. Proper management and
76 maintenance of rights-of-way are
77 essential to ensure that public safety, to
78 protect the integrity of the property, to
79 guarantee the safety of workers and to
80 maintain the efficiency of local streets,
81 utility systems and transportation
82 facilities and networks. Private use of
83 public rights-of-way significantly
84 increase management and maintenance
85 costs.

86
87 Individuals and businesses in the
88 community help to buy and maintain
89 rights-of-way through their taxes.
90 Rights-of-way should not be used for
91 private purposes without approval by
92 and compensation to the local
93 government for the right to use the
94 space. Local governments and their

1 taxpayers are entitled to a fair return for
2 private business use of public property
3 and for reimbursement for all costs
4 associated with those uses. Local
5 governments must have continued
6 authority to control the rights-of-way
7 and to receive appropriate compensation
8 for their use.

9 b. Equitable Taxation.

10 Telecommunications providers are
11 valued members of our corporate
12 community. All members of the
13 corporate community must pay taxes on
14 an equitable basis, as appropriately
15 determined by the local government. No
16 legislation should restrict the ability of
17 local governments to impose equitable
18 taxes on telecommunications providers.

19 c. Universal Service and Consumer

20 Access. Important educational and
21 community services are provided via
22 telecommunications.
23 Telecommunications providers must be
24 responsive to citizen needs and concerns
25 and provide appropriate customer
26 services to all segments of our
27 community so that disparities due to
28 income or geographic location affecting
29 citizen access to new technology are
30 minimized.

31 d. Competition. Local governments are
32 interested in healthy competition in the
33 field of telecommunications. To ensure
34 a competitively neutral and non-
35 discriminatory market, all service
36 providers must pay fair compensation
37 for the use of public property.

38 Governments should not be forced to

39 subsidize some participants in this fee-
40 market competition through lower-than-
41 fair-market charges or any other means.

42 e. Local Government as Customers. Local
43 governments are important consumers of
44 telecommunications services. In many
45 communities, the local government is the
46 single largest customers of
47 telecommunications services through its
48 government offices, education facilities
49 and emergency communications. As
50 valuable customers, local governments
51 should be treated equitably.

52
53 **UTILITIES**

54 Municipal electric systems should continue
55 to have the authority to set their own rates.
56 These rates are already reviewed and
57 approved by elected governing bodies.

58
59 The State Corporation Commission should
60 NOT be permitted to further regulate rates
61 for utility services furnished to or by local
62 governments.

63
64 The Virginia Electric Utility Restructuring
65 Act of 1999, as amended in 2001, requires
66 that incumbent electric utilities functionally
67 separate their generation facilities from their
68 transmission and distribution facilities prior
69 to implementing retail choice. VML
70 supports functional separation but is
71 opposed in principle to an arrangement
72 whereby a Virginia utility would transfer its
73 generation facilities to an affiliate
74 corporation.

76
77 **II. COMMUNITY AND ECONOMIC DEVELOPMENT**

78
79 Community and economic development are
80 essential to the continued vitality of the
81 Commonwealth of Virginia. VML urges the
82 state to continue to allow localities to
83 participate in the evolution and use of the
84 state economic development strategic plan.

85 Realizing the importance of the sense of
86 community, VML supports legislation that
87 would encourage state and local cooperation
88 efforts that would deter crime and promote
89 maintenance of property in neighborhoods.

1 **HOUSING**

2 VML urges state and local governing
3 bodies to develop and maintain a balanced
4 housing mix, including affordable housing.
5 Local officials are in the best position to
6 determine that mixture. Local governments
7 must be fully involved in the decisions on
8 the placement of affordable housing in their
9 jurisdictions. Procedures involving the
10 granting of tax credits for projects must
11 involve local governing bodies. Any
12 locality that issues a Section 8 housing
13 certificate should have housing available in
14 the jurisdiction for the certificate's holder, to
15 prevent persons who are granted Section 8
16 certificates from having to leave their home
17 jurisdiction in order to find housing.

18
19 VML supports state funding for affordable
20 housing.

21
22 **PLANNING AND LAND USE**

23 Planning and land use control are two of
24 local government's most important
25 functions. Localities should maintain
26 control of local land use decisions. Neither
27 the state or federal government should usurp
28 a locality's power to make such decisions.
29 All localities should be guided by their
30 comprehensive plan for future development.
31 The General Assembly should allow local
32 governments to exercise land use authority
33 in the manner that the local government
34 deems appropriate for its circumstances.

35
36 The General Assembly should enhance local
37 government's ability to implement their
38 carefully developed comprehensive plans by
39 authorizing a complete spectrum of land use
40 and growth management tools and should
41 allow localities more creative, locally
42 initiated planning and land use mechanisms.
43 Examples of land use and growth
44 management tools that localities should be
45 authorized to use include impact fees,
46 including the authority to finance the cost of
47 growth and offset local infrastructure costs

48 attributable to development; proffers;
49 transferable development rights and
50 adequate public facility ordinances.

51
52 VML supports the state's exploration of
53 sustainable development, provided that there
54 is not an effort to supplant the authority of
55 local governments to determine their own
56 land use policies, and encourages the
57 consideration of incentives for localities to
58 implement sustainable development
59 approaches.

60
61 State agencies should be required to comply
62 with local comprehensive plans and local
63 land use regulations and policies, subject to
64 override by the governor.

65
66 The General Assembly should give localities
67 the authority to remove abandoned/blighted
68 structures in a more timely manner by
69 reducing the lengthy procedures of
70 identifying and notifying all owners and lien
71 holders of the property. Further, VML
72 supports strengthening the minimum
73 housing maintenance code.

74
75 VML supports enhanced redevelopment
76 opportunities through the adoption of an
77 urban policy for the commonwealth, and
78 implementation of growth management
79 policies that encourage growth and
80 economic development in urban areas.

81
82 VML should seek amendments to *Code of*
83 *Virginia*, § 15.2-2307 to make it clear that
84 the new vested rights law is prospective only
85 and further, to ensure that local governments
86 have the authority to amend zoning
87 ordinances in the future.

88
89 The state should not enact any legislation,
90 under the name of private property
91 protection law, that seeks to weaken local
92 powers to regulate land uses and protect the
93 community's health, safety and welfare, or
94 that requires additional compensation

1 beyond the interpretation of the Fifth
2 Amendment of the U.S. Constitution and
3 Article I, section II of the Virginia
4 Constitution.
5 VML opposes any additional legislation that
6 would exempt religious organizations from
7 neutral, generally applicable local
8 ordinances, and in particular, local zoning
9 and public safety ordinances.

11 **SHARED COSTS WITH PROPERTY OWNERS**

13 The General Assembly should:

- 14 • Grant all local governments the ability to
15 assess impact fees at the time of site

31

32 **III. PUBLIC SAFETY**

33 VML supports legislation that preserves law
34 and order and promotes the safety, quality of
35 life and administration of justice within our
36 communities. The Commonwealth should
37 enhance its efforts to prevent juvenile crime,
38 minimize violence in the schools, reduce the
39 formation and operation of gangs by
40 providing funding for programs that prepare
41 our youth to be productive, responsible, self-
42 reliant members of society.

43

44 The state should continue to provide
45 leadership and technical assistance to
46 localities in their efforts to coordinate public
47 safety activities including emergency
48 services.

49

50 Greater latitude should be given to localities
51 in encouraging innovative methods of
52 combating traffic violations and crime.

53

54 **COMMUNITY CORRECTIONS**

55 VML requests both increased funding and
56 an equitable distribution formula for
57 services provided under the Comprehensive
58 Community Corrections Act (CCCA) and
59 the Pre-Trial Services Act (PSA). Since the
60 advent of these programs in 1995, caseloads
61 have effectively doubled at the local level,

16 development approval to pay for the
17 related costs of new development;

- 18 • Extend to all localities the same level of
19 authority for conditional zoning to
20 address off-and on-site transportation
21 issues as is granted to Northern Virginia
22 and Eastern Shore;
- 23 • Grant localities the authority to require
24 land developers to pay pro-rata share of
25 the costs of supplying necessary roads
26 adjacent to property they are developing;
27 and
- 28 • Remove the 10-year time limit for use of
29 impact fees received by the locality.
30

62 while state resources have remained
63 constant. These resources are allocated to
64 localities on a discretionary grant basis.
65 Given the statewide character of this
66 program, it is now time to allocate these
67 funds through an equitable formula that
68 recognizes regional costs and benefits of
69 these services. The program is cost
70 effective.

71

72 **COURT FEES**

73 A user of the court system should not force
74 increased costs on the general population.
75 VML supports legislation to increase court
76 fees to pay for courthouse maintenance,
77 renovation and construction and other court-
78 related projects.

79

80 **DOMESTIC VIOLENCE**

81 Virginia's law defines domestic violence as
82 incidents involving those who are or have
83 been married, those who cohabit or have
84 cohabited within the past 12 months, or
85 couples that have a child in common. As it
86 has been demonstrated that incidents of
87 domestic violence between couples who
88 previously cohabited can occur several years
89 or more after they cease to cohabit, incidents
90 of violence between these individuals should

1 be treated as domestic violence, no matter
2 how much time has passed since the
3 cohabitation ceased. The *Code of Virginia*
4 definition of domestic violence should be
5 changed to reflect this broader scope of
6 cohabitation.
7
8 Currently cases involving statutory-defined
9 domestic violence go to the juvenile and
10 domestic relations district court, while those
11 which do not meet the code definition go to
12 the general district court. Giving the
13 juvenile and domestic relations district court
14 jurisdiction over these cases to the greatest
15 degree practical would allow that court to
16 develop a greater expertise and consistency
17 in dealing with this type of violence. A code
18 change is recommended.
19
20 **FAMILY COURTS**
21 Any legislation to implement a family court
22 system should include 100 percent state
23 financing of new operating and capital costs
24 of that system.
25
26 **INTERNAL AFFAIRS**
27 **INVESTIGATIONS**
28 Legislation should be enacted to restrict the
29 use, in civil matters, of information gathered
30 in internal investigations when based on
31 compelled disclosure.
32
33 **OVERCROWDING/STATE SUPPORT**
34 The state should live up to its commitment
35 to remove state prisoners from local jails.
36
37 The state should fully fund the per diem
38 reimbursement for all state prisoners.
39
40 Jails built by a single large locality should
41 be made eligible for the same state
42 reimbursement rate for construction as a
43 regional jail facility.
44

45 **TRAINING ACADEMIES**
46 The state should fully fund all mandated
47 criminal justice training provided through
48 certified academies.
49
50 **TECHNOLOGY**
51 State law should allow all counties, cities,
52 and towns to make full and appropriate use
53 of modern technology to promote public
54 safety. Localities should have maximum
55 flexibility to contract with the private sector
56 to implement all aspects of such technology.
57
58 Pursuant to the 1996 Telecommunication
59 Act, the cellular phone industry is
60 developing technology to provide for the
61 identification of the origin of cellular
62 emergency calls. Until this technology is
63 implemented and revenue sources have been
64 identified to finance it, the state police
65 should continue to handle the E911 calls
66 they currently handle.
67
68 **VIOLENCE**
69 The General Assembly should enable
70 localities to help communities deal with
71 violence issues by:
72 a. reducing the accessibility of weapons
73 such as a ban on assault weapons,
74 b. expanding state and local cooperative
75 efforts in neighborhoods,
76 c. promoting additional prevention and
77 intervention programs to deal with
78 youths who may adopt a violent way of
79 life, and
80 d. granting localities more flexibility to
81 handle problems of abandoned and
82 blighted structures.
83
84 **COURT SECURITY**
85 The General Assembly should adopt
86 legislation making it clear that local judges
87 do not have the authority to order localities
88 to fund more deputy positions for court
89 security than are provided for in the State
90 Code and Appropriations Act.