
2012 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 General Assembly should promote the sharing of the economic, social, cultural, fiscal and educational benefits and burdens of urbanization among all local governments involved.

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

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 burdensome regulations relating to:

1. meetings of governing bodies;
2. purchasing procedures;
3. matters that can be enacted by resolution or ordinance;
4. procedures for adopting ordinances; and
5. procedures for filling vacancies on local governing bodies.

State intervention in local affairs is only warranted in significant matters where regional or statewide issues that are of great importance exist. No changes should be made in the laws affecting local government without substantial local input from affected jurisdictions and participation in developing those changes.

VML opposes legislation that:

- bars courts from awarding attorney's fees to local governments when a frivolous suit is filed;

- 1 • eliminates the notice of claim
2 requirement found in the *Code of*
3 *Virginia*, § 15.2-209. (*Updated*
4 *reference.*)

5
6 Membership on all state and regional
7 commissions or committees dealing with
8 matters affecting local governments must
9 include local officials who represent a
10 demographic and geographic cross-section
11 of counties, cities, and towns.

12
13 VML supports legislation to transfer
14 responsibility from local governments to the
15 state government for the liability,
16 administration and cost of community
17 service options for persons upon whom
18 court costs and fines are levied.

20 TOWNS

21 The General Assembly and the executive
22 branch should recognize towns as essential
23 units of local government, with important
24 roles in providing services to citizens living
25 in a concentrated environment. As such,
26 towns with their centrality and economic
27 efficiency represent the future of the
28 urbanizing areas of the Commonwealth.
29 Towns should have clear and full authority
30 to be formed and to act in a timely manner
31 on matters which protect public health,
32 safety, and welfare.

33
34 The General Assembly should respect and
35 support the sovereignty, utility, and urban
36 powers of towns. No legislation should be
37 enacted that allows counties to usurp or
38 diminish the authorities of towns. Excise
39 taxes that counties are authorized to levy
40 generally must not apply within towns
41 without the explicit approval by the town's
42 governing body.

43
44 The General Assembly should scrutinize
45 bills dealing with laws of general
46 applications to local governments, to avoid
47 enacting any laws that would be sources of

48 possible conflicts between counties and
49 towns. The following list provides
50 examples of conflicts between towns and
51 counties exacerbated by legislative action:

- 52
53 a. taxation of town residents by county
54 governments at the same rate as that
55 applied to those living in the county's
56 unincorporated areas, when comparable
57 benefits and services are not provided;
- 58 b. county imposition of a merchants'
59 capital tax on businesses located within
60 the town at the same rate as that applied
61 to businesses located in unincorporated
62 areas of the county, when the town
63 levies a business, professional and
64 occupational license tax;
- 65 c. unequal town zoning and planning
66 authority for land straddling or abutting
67 town corporate boundaries and
68 unincorporated county areas;
- 69 d. funding of county sheriffs' and deputy
70 sheriffs' salaries by the State
71 Compensation Board and other state-
72 funded amenities not provided to town
73 police departments; and
- 74 e. unequal statutory authority of towns in
75 relationship to that of cities and counties.
76 f. allowing county excise tax within a
77 town without approval of the town
78 government.

79
80 The General Assembly should recognize the
81 unintended consequences of inadvertently
82 omitting towns or cities or counties from
83 legislation.

84
85 Towns should retain the right to annex lands
86 and otherwise expand their boundaries.
87 Towns over 5,000 population should have
88 the right to become an independent city; and
89 cities should have the right to revert to town
90 status.

92 STATE AND FEDERAL MANDATES

93 The state and federal governments must
94 provide adequate funding for any local

1 programs or responsibilities that are
2 mandated or expanded by state and federal
3 laws or regulations.

4
5 The federal and state governments should
6 not use project funding as a means of
7 forcing local land use decisions in
8| contravention to local land use plans. These
9 actions violate the principles of local ~~home~~
10 ~~rule~~ (authority) and weaken the local tax
11 base.

12
13 Federal and state mandates must be reduced
14 when funding is reduced, so that localities
15 are not required to spend additional local
16 dollars to comply with the mandates.
17 Further, funds should be distributed in the
18 most efficient way possible with the least
19 regulatory control.

20
21 The Governor and General Assembly should
22 promote state-local partnerships by
23 requiring:

- 24 1. A review of mandates in specific
25 program areas to (a) establish the full
26 cost to local governments of
27 implementing mandates and (b) develop
28 an appropriate basis for determining
29 state-local funding responsibilities.
- 30 2. Completion of cost estimates for
31 proposed legislation prior to its first full
32 review by a legislative committee, with
33 legislation negatively affecting local
34 governments' revenue-raising ability
35 being submitted to the COLG for a fiscal
36 impact analysis.
- 37 3. A performance-based approach to
38 mandates that (a) focuses on outcomes,
39 (b) offers incentives for achieving state
40 objectives, and (c) gives local
41 governments autonomy to determine the
42 best way to achieve the desired result.
- 43 4. Simplified state reporting requirements
44 associated with mandates eliminating
45 nonessential information and
46 duplication, coordinating state deadlines

47 for information submittal, and making
48 better use of reporting technology.

49 The alarming tendency of state and federal
50 agencies to treat guidelines authorized by
51 enabling legislation as having the stature of
52 law itself must cease. In addition, the state
53 should avoid unessential and arbitrary
54 implementation of federal regulations.

55 56 **STATE AND LOCAL** 57 **RESPONSIBILITIES**

58 The state requires local governments to
59 provide certain services, such as education,
60 corrections, social services, health and
61 community mental health. The local
62 government does not have the option of not
63 being the state's service provider in these
64 areas. "State aid" to localities is the state's
65 payment for the implicit contractual
66 arrangement for this assignment of duties.
67 In addition, local governments have to
68 contribute local funding to these services.

69
70 In addition to the state-mandated services,
71 localities provide other services that are
72 either necessary (water and sewer, police
73 and fire protection, etc.) or desired by local
74 residents (parks and recreation, cultural
75 activities, etc.). Local governments need the
76 flexibility and resources to collect revenues
77 to meet these local responsibilities.

78
79 Two fundamental problems in Virginia's
80 intergovernmental structure are first, the
81 state does not fund adequately existing
82 services, particularly education, that it
83 requires local governments to provide; and
84 second, local officials have very limited
85 revenue options, which forces them to rely
86 heavily on real estate, personal property
87 taxes and other local revenue sources to pay
88 for services.

89
90 Further, to improve the relationship of the
91 state and local governments, the state
92 should

- 1 1. Not restrict the taxing authority and
2 revenue sources of local governments
3 without local concurrence.
- 4 2. Strengthen the partnership of the state
5 with local governments by granting local
6 governments full authority to deal
7 effectively with social problems.
- 8 3. Participate as a financial partner with
9 local governments in the costs of
10 education, including school construction
11 and renovation, and, as an active partner,
12 fully fund the state's fair share of the
13 costs of education.
- 14 4. Follow specific procurement procedures
15 before purchasing property, including
16 adequate inquiry into the purchase,
17 public hearings and notice, and notice of
18 intent to settle sent to the locality. In
19 addition, the state should consider
20 remuneration to the locality for the loss
21 of real estate taxes as well as any loss in
22 economic development potential.

23
24 The General Assembly should continue its
25 involvement with and financial support of
26 the Virginia Institute of Government.

28 **FREEDOM OF INFORMATION**

29 VML strongly supports the free flow of
30 information to citizens and the media
31 through the conduct of governmental affairs
32 at all levels in the open, in good faith
33 compliance with the Freedom of
34 Information Act. VML also supports efforts
35 to educate local government officials about
36 the Act, and the importance of extensive and
37 accurate reporting of government affairs.

38
39 Citizens have the right to have personal
40 information protected. Government also has
41 to be able to control its work processes so
42 that public business can be conducted. It is
43 in the public's interest to conduct some
44 matters outside public view prior to official
45 action. Accordingly, VML strongly opposes
46 extending limitations on closed meetings
47 and exempt records, which would upset the

48 Act's careful balance among a fully
49 informed public, the protection of
50 individuals' privacy, the ability of
51 government to conduct its work and those
52 matters for which the premature release
53 would not be in the best interest of the
54 locality or its citizens.

55
56 In addition, localities should be able to
57 continue charging reasonable fees for any
58 and all records, including for research time
59 and for computer records that must be
60 provided under the Act to avoid shifting the
61 cost of copying from the requestor to the
62 general taxpayers.

63
64 VML opposes legislation to limit the use of
65 any legitimate means of communications
66 from one elected official to others, including
67 letters, emails and conversation.

69 **GOVERNMENTAL & MUNICIPAL 70 OFFICIAL LIABILITY**

71
72 VML calls upon Virginia's congressional
73 delegation to support legislation to restore
74 suits brought under 42 U.S.C. Section 1983
75 to traditional civil rights actions, and to
76 preclude the award of damages if the court
77 finds that the government or its officials
78 were acting in good faith.

79
80 Expanding liability and eroding immunities
81 at the state level across the nation have had a
82 chilling effect on the actions of local
83 government officials contributing to local
84 government insurance problems, creating
85 immense financial risks (particularly for
86 legal costs), and posing a substantial
87 obstacle to the provision of needed public
88 services.

89
90 The Virginia General Assembly should
91 strengthen the principles of sovereign
92 immunity for local governments and their
93 officials.

1 VML strongly opposes bringing local
2 governments under the Virginia Tort Claims
3 Act. This action would seriously erode the
4 sovereign immunity now enjoyed by
5 Virginia local governments and lead to a
6 substantial increase in frivolous suits.

7
8 The tort reparations system in the U.S.
9 creates many difficulties in the
10 administration of justice. VML supports
11 efforts at the national and state levels to
12 address tort reform, such as limitations on
13 the tort liability of local governments in
14 areas where local governments do not enjoy
15 sovereign immunity.

16
17 The General Assembly should adopt
18 legislation to codify the proposition that real
19 property of local governments shall be
20 exempt from liens created by statute or
21 otherwise. This proposition has already
22 been recognized by the Virginia Supreme
23 Court for mechanics liens.

24 **PERSONNEL**

25 Management has the responsibility to ensure
26 that employment, training, and promotional
27 opportunities are provided without regard to
28 race, creed, sex, national origin, age, or any
29 other factors not related to job performance.

30
31
32 VML supports:

- 33 • an equitable heart/lung/cancer
34 presumption statute as was the intent of
35 the original legislation. Compensability
36 should be determined by establishing
37 whether work or non work related risk
38 factors are more likely the primary cause
39 of the claimant's condition. Additional
40 employee classes and/or medical
41 conditions should be added only when
42 supported by credible medical evidence.
- 43 • the current injury by accident definition
44 in the Virginia Workers' Compensation
45 Act.
- 46 • the current Workers' Compensation Act
47 provisions for use of an employer

48 selected panel of physicians to treat
49 injured workers.

- 50 • maintenance of the exclusive remedy
51 provisions of the Virginia Workers'
52 Compensation Act.
- 53 • local governments' authority to establish
54 hours of work, salaries and working
55 conditions for local employees.
- 56 • Legislation to allow the Virginia
57 Retirement System to offer political
58 subdivisions, at their option, the
59 opportunity of participating in the
60 Virginia Sickness and Disability
61 Program. Because of the intensive
62 administrative requirements associated
63 with the transition to the VSDP, the
64 opportunity to participate in the program
65 would have to be phased in over a
66 number of years.

67
68 VML opposes:

- 69 • any attempt to impose collective
70 bargaining or 'meet and confer'
71 requirements for public employers or
72 employees.
- 73 • any attempt by the federal government to
74 stipulate grievance procedures for state
75 and local employees, such as the police
76 officers bill of rights.

77
78 VML supports the creation of a legislative
79 study commission to undertake a
80 comprehensive examination of issues
81 associated with the Virginia Retirement
82 System. The commission should seek the
83 input of local officials through creation of a
84 local advisory group.

85 **TELECOMMUNICATIONS, LOCAL 86 GOVERNMENT PRINCIPLES**

87 VML sets forth the following principles to
88 guide any federal or state legislative action
89 regarding telecommunications issues.

- 90 a. Public Rights-of-Way.
91
92 Local rights-of-way are public property.
93 The rights-of-way contain numerous utility
94

1 and other facilities. Proper management
2 and maintenance of rights-of-way are
3 essential to ensure public safety, to protect
4 the integrity of the property, to guarantee the
5 safety of workers and to maintain the
6 efficiency of local streets, utility systems
7 and transportation facilities and networks.
8 Private use of public rights-of-way
9 significantly increases management and
10 maintenance costs.

11 b. Franchise authority.
12 Neither the federal government nor the state
13 should enact any laws to shift the award of
14 franchises to use the public rights of way
15 from the local governing body to any state
16 or federal agency.

17
18 Individuals and businesses in the community
19 help to buy and maintain rights-of-way
20 through their taxes. Rights-of-way should
21 not be used for private purposes without
22 approval by and compensation to the local
23 government for the right to use the space,
24 and local governments must have authority
25 to control the rights-of-way.

26
27 c. Equitable Taxation.
28 Telecommunications providers are valued
29 members of our corporate community. All
30 members of the corporate community must
31 pay taxes on an equitable basis, as
32 appropriately determined by the local
33 government. No legislation should restrict
34 the ability of local governments to impose
35 equitable taxes on telecommunications
36 providers.

37 d. Universal Service and Consumer
38 Access. Important educational and
39 community services are provided via
40 telecommunications. Telecommunications
41 providers must be responsive to citizen
42 needs and concerns and provide appropriate
43 customer services to all segments of our
44 community so that disparities due to income
45 or geographic location affecting citizen
46 access to new technology are minimized.

47 e. Competition. Local governments are
48 interested in healthy competition in the field
49 of telecommunications. To ensure a
50 competitively neutral and non-
51 discriminatory market, all service providers
52 must pay fair compensation for the use of
53 public property. Governments should not be
54 forced to subsidize some participants in this
55 fee-market competition through lower-than-
56 fair-market charges or any other means.

57 f. Local Government as Customers.
58 Local governments are important consumers
59 of telecommunications services. In many
60 communities, the local government is the
61 single largest customers of
62 telecommunications services through its
63 government offices, education facilities and
64 emergency communications. As valuable
65 customers, local governments should be
66 treated equitably.

67 UTILITIES

68 Fundamental policies should be honored by
69 the state in promoting the delivery of utility
70 services by local governments and the
71 authorities they create:

72
73 a. Each such provider of service must
74 be free to set its rates without interference
75 from other local governments or the state.

76 b. Each local government providing
77 utility services must be able to compete
78 fairly with any other providers without state
79 interference.

80 c. Each local government that provides
81 utility services must be able to manage its
82 revenues and expenditures related to the
83 services without state interference.

84
85 Virginia's localities and water and sewer
86 authorities must retain the ability to enforce
87 liens against landlords' properties for the
88 unpaid water and sewer bills of their tenants
89 in order to maintain a dependable income
90 stream. Legislation should be enacted that
91 creates a single, fair process for collecting
92 the unpaid water and sewer bills of tenants
93 against landlords.

1 Municipal electric systems should continue
 2 to have the authority to set their own rates.
 3 These rates are already reviewed and
 4 approved by elected governing bodies.
 5 The State Corporation Commission should
 6 NOT be permitted to further regulate rates
 7 for utility services furnished to or by local
 8 governments.
 9 The Virginia Electric Utility Restructuring
 10 Act of 1999, as amended in 2001, requires
 21

23 **II. PUBLIC SAFETY**

24 VML supports legislation that preserves law
 25 and order and promotes the safety, quality of
 26 life and administration of justice within our
 27 communities. The Commonwealth should
 28 enhance its efforts to prevent juvenile crime,
 29 minimize violence in the schools, reduce the
 30 formation and operation of gangs by
 31 providing funding for programs that prepare
 32 our youth to be productive, responsible, self-
 33 reliant members of society.
 34

35 The state should continue to provide
 36 leadership and technical assistance to
 37 localities in their efforts to coordinate public
 38 safety activities including emergency
 39 services.

40 VML supports legislation that will clearly
 41 establish the relationships between the
 42 Virginia State Police and municipalities to
 43 assure efficient command, control and
 44 communications during local emergencies.
 45

46 Additional authority should be granted to
 47 law enforcement agencies to impound the
 48 vehicle owned by a person charged after
 49 having been convicted more than once of
 50 operating the motor vehicle without a
 51 driver's license.
 52

53 Greater latitude should be given to localities
 54 in encouraging innovative methods of
 55 combating traffic violations and crime.

11 that incumbent electric utilities functionally
 12 separate their generation facilities from their
 13 transmission and distribution facilities prior
 14 to implementing retail choice. VML
 15 supports functional separation but is
 16 opposed in principle to an arrangement
 17 whereby a Virginia utility would transfer its
 18 generation facilities to an affiliate
 19 corporation.
 20
 22

56 **COMMUNITY CORRECTIONS**

57 VML requests both increased funding and
 58 an equitable distribution formula for
 59 services provided under the Comprehensive
 60 Community Corrections Act (CCCA) and
 61 the Pre-Trial Services Act (PSA). Since the
 62 advent of these programs in 1995, caseloads
 63 have effectively doubled at the local level,
 64 while state resources have remained
 65 constant. These resources are allocated to
 66 localities on a discretionary grant basis.
 67 Given the statewide character of this
 68 program, it is now time to allocate these
 69 funds through an equitable formula that
 70 recognizes regional costs and benefits of
 71 these services. The program is cost
 72 effective.
 73
 74

75 **COURT FEES**

76 A user of the court system should not force
 77 increased costs on the general population.
 78 VML supports legislation to increase court
 79 fees to pay for courthouse maintenance,
 80 renovation and construction and other court-
 81 related projects.
 82

83 **DOMESTIC VIOLENCE**

84 Virginia's law defines domestic violence as
 85 incidents involving those who are or have
 86 been married, those who cohabit or have
 87 cohabited within the past 12 months, or
 88 couples that have a child in common. As it
 89 has been demonstrated that incidents of
 90 domestic violence between couples who

1 previously cohabited can occur several
2 years or more after they cease to cohabit,
3 incidents of violence between these
4 individuals should be treated as domestic
5 violence, no matter how much time has
6 passed since the cohabitation ceased. The
7 *Code of Virginia* definition of domestic
8 violence should be changed to reflect this
9 broader scope of cohabitation.

10
11 Currently cases involving statutory-defined
12 domestic violence go to the juvenile and
13 domestic relations district court, while those
14 that do not meet the code definition go to the
15 general district court. Giving the juvenile
16 and domestic relations district court
17 jurisdiction over these cases to the greatest
18 degree practical would allow that court to
19 develop a greater expertise and consistency
20 in dealing with this type of violence. A code
21 change is recommended.

22 23 **FAMILY COURTS**

24 Any legislation to implement a family court
25 system should include 100 percent state
26 financing of new operating and capital costs
27 of that system.

28 29 **INTERNAL AFFAIRS**

30 **INVESTIGATIONS**

31 Legislation should be enacted to restrict the
32 use, in civil matters, of information gathered
33 in internal investigations when based on
34 compelled disclosure.

35 36 **OVERCROWDING/STATE SUPPORT**

37 The state should live up to its commitment
38 to remove state prisoners from local jails.

39
40 The state should fully fund the per diem
41 reimbursement for all state prisoners.

42
43 Jails built by a single large locality should
44 be made eligible for the same state
45 reimbursement rate for construction as a
46 regional jail facility.

47 48 **TRAINING ACADEMIES**

49 The state should fully fund all mandated
50 criminal justice training provided through
51 certified academies.

52 53 **TECHNOLOGY**

54 State law should allow all counties, cities,
55 and towns to make full and appropriate use
56 of modern technology to promote public
57 safety. Localities should have maximum
58 flexibility to contract with the private sector
59 to implement all aspects of such technology.

60
61 State policy must assist local governments to
62 contact and notify their citizens in the most
63 efficient and cost-effective manners possible
64 given the telecommunications infrastructure
65 in the locality. Ads required by the code of
66 Virginia are expensive to run in the
67 newspaper and often are only seen by a
68 small minority of the citizens. In some
69 cases, newspapers that charged reasonable
70 advertising rates closed leaving localities
71 with only expensive newspapers for legal
72 notices. A locality's internet presence,
73 social media, local cable access channels,
74 local radio and TV provide alternative
75 methods to contact the citizens much more
76 broadly and effectively than newspaper ads
77 in many areas of the Commonwealth. In
78 addition, the cost of contacting the citizens
79 through new technology can be much lower
80 than advertising in the newspaper. The state
81 code should be amended to allow local
82 governments electronic and other alternative
83 means of communicating with their citizens
84 when providing required legal notices.

85
86 In addition, small towns should be allowed
87 to use first class mail instead of newspaper
88 advertising to notify the citizens of
89 government actions such as advertising a
90 budget hearing or advertising a land use
91 hearing in order to save the citizens money
92 and to communicate more effectively with
93 the citizens.

1 Pursuant to the 1996 Telecommunication
 2 Act, the cellular phone industry is
 3 developing technology to provide for the
 4 identification of the origin of cellular
 5 emergency calls. Until this technology is
 6 implemented and revenue sources have been
 7 identified to finance it, the state police
 8 should continue to handle the E911 calls
 9 they currently handle.

10

11 **VIOLENCE**

12 The General Assembly should enable
 13 localities to help communities deal with
 14 violence issues by:

- 15 a. reducing the accessibility of weapons by
 16 criminals through tools such as a ban on
 17 assault weapons,
- 18 b. expanding state and local cooperative
 19 efforts in neighborhoods,
- 20 c. promoting additional prevention and
 21 intervention programs to deal with
 22 youths who may adopt a violent way of
 23 life, and
- 24 d. granting localities more flexibility to
 25 handle problems of abandoned and
 26 blighted structures.

27

28 **COURT SECURITY**

29 The General Assembly should adopt
 30 legislation making it clear that local judges
 31 do not have the authority to order localities
 32 to fund more deputy positions for court
 33 security than are provided for in the State
 34 Code and Appropriations Act.

35

36 **YOUNG DRIVERS**

37 VML urges Virginia's lawmakers and
 38 leadership to study a Graduated Drivers
 39 License program with intermediate testing
 40 and review after 1 year and to study a more
 41 extensive and challenging driver's education
 42 program to better prepare young drivers.

43

44 **PRIMARY SEAT BELT LAW**

45 VML strongly endorses adoption of a
 46 Primary Seat Belt Law in the
 47 Commonwealth in an effort to save lives,

48 reduce injuries on our roads, and be eligible
 49 to receive \$16.5 million in grant money for
 50 law enforcement.

51

52 **NOISE CONTROL**

53 VML supports state and local programs to
 54 control unacceptable noise. Local
 55 governments should have the authority to
 56 determine the appropriate measure for
 57 establishing unacceptable levels of nuisance
 58 noise and to enact local ordinances to
 59 address its curtailment.

60