



Reform commission proposes taxing, spending limitations

With great fanfare, Gov. Bob McDonnell accepted the interim report of his Commission on Government Reform and Restructuring on Oct. 15 by noting that “taxpayers should be pleased that Virginia state government is enthusiastically continuing to innovate, save money, be smarter and more transparent.” In creating a reform commission, McDonnell followed in the footsteps of at least five governors holding office since 1970.

The commission was divided into four committees, each of which met several times and submitted reports incorporated in the commission’s interim report. Some of the committee recommendations dealt with similar issues, such as one-stop government offices and surplus property. The committees and commission are expected to continue meeting throughout the remainder of the governor’s term. The commission’s next meeting is Nov. 18, with a subsequent report due by Dec. 1.

Originally, McDonnell had planned to call a special session of the General Assembly this fall to address the adoption of his proposal to privatize ABC stores, as well as perhaps other recommendations of the commission. McDonnell, however, announced Friday that the issue would be taken up during the 2011 regular session of the legislature.

Given the complexity of some of the commission’s recommendations, it would seem difficult for the governor to include all 107 of them in his legislative agenda for 2011. Most likely, the governor will include some of the reform recommendations in his legislative package while others are pushed by individual legislators.

Unknown at this point are the price tags and savings associated with the implementation of the recommendations. View the entire report at: <http://bit.ly/aIxZzT>.

Based on the information available, here is an overview of recommendations of most interest to local governments.

Taxing/spending limitations

The commission makes two recommendations on taxing and spending limitations under the category of “budget transparency.” The first sets a statutory limit on government spending expressed as a percentage of Gross State Product while the second requires that budget baselines be reduced by 2 percent a year, under the rationale that government should be achieving productivity gains each year. The 2 percent is described as a “productivity dividend.”

One of the studies cited in the commission’s report says that taxing and spending limitations at the state level have received mixed reviews, with savings at the state level offset by higher spending at the local level. At least one state, Colorado, has suspended strict taxing and revenue limitations.

This initiative would apply to the administrative and delivery costs of programs and activities. It apparently would not apply to benefits such as Medicaid, but would apply to the administrative process by which eligibility is determined, which is a process conducted at the local level. It does not specify where any savings would go if revenues

exceed expenditures, or how such a proposal would affect the state's funding of the Standards of Quality, for example.

Streamlining contract approval of local transportation projects

Under current state law the Commonwealth Transportation Board (CTB) is the contract approving authority for all transportation projects over \$2 million (anything under this amount must be approved by either the VDOT Commissioner or the DRPT director). This requirement also applies to localities that are empowered to administer state-funded transportation projects. The commission makes a good recommendation by increasing the contract approval threshold to \$5 million and clarifying that a locality does not need CTB approval for locally-administered projects. The desired result is to shorten the approval process for contract approval and lessen the workload of the CTB.

Limiting local authority to regulate overweight vehicles

Two recommendations would limit local government authority to regulate and issue permits for overweight vehicles.

The first recommendation deals with farm machinery. Under current state law farm machinery is exempted from size limitations when being temporarily hauled or propelled along roadways. The recommendation is to expand the exemption to include weight limitations. The commission states in the interim report that the DMV and "... *most localities have historically construed this provision to include weight limitation exemptions ... Several localities, however, have recently limited the exemption solely to size. To further the interest of Virginia's agricultural community, the Code should be amended to clarify that this exemption applies to both size and weight.*"

The second recommendation would eliminate local government authority to issue overweight permits for roads within its jurisdiction. As stated in the interim report... "*Recently several truckers, operating with a valid Commonwealth of Virginia weight permit, have been ticketed by local law enforcement personnel for operating an overweight vehicle. The Code should be amended to explicitly state that any oversize or overweight permit issued by DMV satisfies local size and weight permit requirements. As part of this change, the Commonwealth Transportation Board (CTB) should be granted authority to allocate a portion of road damage fees to affected localities.*"

VML staff is concerned that this recommendation does not adequately take into account public safety and the physical integrity of local roadways. Additionally, given the diminishing funds allocated to the local level for road maintenance, it is important for local governments to retain this permitting authority as a means to prevent and ameliorate structural damage to pavement and bridges caused by overweight vehicles.

One-stop shops

The commission's report contains several somewhat overlapping recommendations creating a single-point-of-entry to state (and perhaps local) government.

One recommendation is to enhance the current Virginia Business One Stop website to make licenses, permits and regulations accessible in one place. This would require partnerships among the Virginia Department of Business Assistance, state agencies and localities. Business formation forms would be centralized at the website so that entrepreneurs could satisfy state and local requirements to form new business while

entering information only once. Local governments would be encouraged to post business forms and submissions in an easily located, searchable format.

This recommendation would appear to require considerable changes in information technology and could be costly. The extent to which local governments would be involved is not clear, but there are very good reasons for local governments to question any proposal that removes local control over local permitting. Of course local forms would have to be modified to fit the state template, but that is just the tip of the iceberg. Should the state collect fees, local governments would lose a degree of control over cash flow, and the state would likely retain an administrative fee. Finally, local governments will not be enthusiastic about having their permits and licenses wrapped up in the state information technology system.

A related recommendation urges the establishment of a “citizens’ one-stop shop,” or a government office where a citizen applying for one type of permit would be informed of all other permits and requirements needed to comply with state laws, regulations and rules. This recommendation appears to be aimed at state government, although the text recommends that *“all non-executive government bodies and branches should also adopt this policy.”* Yet another recommendation is to create government customer service centers, perhaps through the Division of Motor Vehicles, to allow access to government information and services.

Shared services

In the area of shared services, the commission proposes that the Department of General Services work with local governments to collaborate on vehicle maintenance where combining maintenance operations can reduce costs to localities and the department. This is similar to the bulk fuel program DGS started this fall.

The governor already has acted on one recommendation coming from the shared services committee, to establish an ad hoc working group comprised of state agency heads, local government representatives, and industry leaders from the private sector to evaluate best practices and goals for reducing consumption and cost of certain state government commodities. The prelude to this recommendation states that *“The Commonwealth and its localities should actively manage the annual expenses for commodities such as phones, travel reimbursement, waste removal, and energy,”* so there is the potential for state interference in local management. The report from the ad hoc working group is due on Nov. 12.

Freedom of Information, public notices

The commission recommends a major rework of the list of public records exempt from disclosure under the Freedom of Information Act. The proposal states that *“Virginia should adopt a policy that states that unless there is a public safety, security, or an individual confidentiality reason that information remain confidential, then all information should be deemed public information and available to the public.”*

Many current exemptions that allow for the exclusion of documents from disclosure would be lost. For example, when a locality is working to acquire property, records related to deciding how much to offer may be kept confidential. Under the proposal, the property owner would gain access to the records, thus destroying the negotiating position of the locality.

In addition, the commission recommends a requirement that all public notices be placed *“online in a readily accessible place and in a user friendly format.”*

The commission recommends that all agencies follow template guidelines for their websites to allow for a branded look that is uniform across all agencies and more “user-friendly.” This appears to apply solely to state agencies.

Presentation of budget and financial information

The commission made several recommendations to make government budgeting and finances more accessible. For example, it recommends that “*all ... political subdivisions receiving government monies must publish the spending of those monies online in an accessible and timely manner and in accordance with the government’s website criteria.*” The state posts information on many of its checks, and some people have interpreted this recommendation as a requirement for localities to do the same. Meeting this requirement would be costly. While many localities post their budget and other similar documents on line, it is not current practice to post individual transactions. Even if the recommendation would apply only to the posting of budget and other similar documents, small localities may well lack the technical capacity to meet that requirement. Finally, revenues and expenditures by counties, cities, and larger towns already are published annually by subject area and source of funds in the Auditor of Public Accounts’ comparative report of local government revenues and expenditures. It should be up to the state to further format such data to allow for web-search engine searches.

Another recommendation is that all government financial statements and budgets be accompanied by a full statement of debts, liabilities, and guarantees, including the differing maturities of that debt and its servicing costs. Last session, VML participated in fighting a bill that would have required that the total service costs of bond issues be displayed in the notice for the issue. The commission’s recommendation supports such legislation.

The commission further recommends that all agencies or political subdivisions that are raising money on the bond market be required to publish information with the bond notice that identifies existing debt levels of that agency or subdivision. They also would be required to identify the maturity of those debts and the annual total of the organization’s debt serving cost as a numerical figure and as a proportion of the operating budget. Local officials should discuss this recommendation with their finance staff and consult with their financial advisors as to the costs and benefits of this recommendation.

The commission recommends an adjustment in the state’s budget cycle so that “*the incoming Governor adopts his/her first budget in the first year in office and second budget in the third year in office.*” Changing the budget cycle is not a new idea, but previous recommendations were to have the new governor propose his first two-year budget in the December of the first year in office. Any change in the budget cycle would require a one-time adjustment (possibly adoption of a one-year instead of two-year budget) to put a new schedule on track.

Procurement

The commission’s report says that: “*The government should ... purchase goods and services from the best provider. To that end it will develop procedures that will allow multiple choices consequently improving the quality and price of the choices.*” This appears to move away from the lowest bid from a responsible and responsive bidder, which is the current legal requirement.

In a positive move, the commission recognizes that *“there are some functions of government that are essentially governmental in nature and should not be performed by the private sector.”*

Mandates

Despite the submission of a variety of mandates that would constitute “low hanging fruit,” the interim report does not include any specific proposals to change current mandates. Instead, the recommendation is to require state agencies to review current mandates with the end goal of eliminating or suspending those that are obsolete or that cannot be implemented.

A companion recommendation would require agencies to justify the continuation of mandates through the use of cost benefit analysis and performance based metrics to determine the value of the mandate relative to the output required. While a laudable goal, it is questionable whether state agencies have the staff capacity to perform this type of review, particularly given the downsizing of state government.

Regionalism

In the area of regionalism, the recommendation is for the Council on Virginia’s Future, working with a stakeholders’ group, to determine the need of increased regional cooperation and to find ways to foster increased efficiencies, effectiveness and economic competitiveness. The council would look for ways to reducing variations in process, purchasing, and operating approaches across localities, take aggressive advantage of economies of scale where available, promote new approaches and partnerships for service delivery and facilitate stronger partnerships among localities to enhance the attractiveness of the region to new and expanding businesses. The council would report to the commission by April 30, 2011.

Centralization of tax collections

The commission recommends that the Department of Taxation develop a pilot project with local treasurers to *“ascertain the efficiency and effectiveness of local constitutional officers assisting the Commonwealth in the collection of debts.”* This could lead to these officials taking on more responsibilities for the state without any additional state financial support.

The commission also recommends consolidating the collection of a variety of taxes under the Department of Taxation, as opposed to the various agencies now collecting these revenues. At first glance, this proposal does not appear to affect local governments.

ABC privatization

The privatization plan calls for the state to get out of the wholesale and retail distribution of distilled spirits. The state would auction a minimum of 1,000 liquor licenses and would assess a \$17.50 per gallon fee on alcohol. A wholesale license charge and a restaurant convenience fee included in an earlier version of the proposal was dropped from the plan included in the commission’s interim report; the privatization plan will now mean the state will take in about \$47 million less from alcohol sales than it currently does -- money used to fund mental health and other state services. Additional variations on privatization are likely to keep coming forward, as the governor tries to find a plan that would gain the support of enough legislators to get through the General

Assembly. One big problem for local governments is that once privatization becomes an issue for the regular session, other issues, including local government land use and taxing authority, become fair game for trading purposes.

VML's Legislative Program states that if privatization is to occur, state revenues from liquor sales that support behavioral health and other state services must be maintained at no less than current levels.

Other aspects of the proposal appear at this point to meet the intent of VML's legislative position on privatization. Under the proposal:

- Issuance of off-premise distilled spirits licenses will be subject to local government zoning and ABC hearing processes. There are not enough details, however, to determine whether property that has already been approved for beer and wine licenses would have to come back to local government for approval to sell distilled spirits. Most local government would want this to be the case.

- Good faith efforts will be made to ensure that small, woman- and minority-owned businesses have significant opportunities to obtain licenses.

- Local governments (statewide) could collect an additional \$4.3 million in local option sales taxes, BPOL, and local meals taxes.

Disposal of surplus property

There is a whole series of recommendations dealing with the inventorying, classification and disposal of state surplus property. These do not appear to have any effect on local governments. However, local governments, charities and other groups have first dibs on acquiring state surplus property. Local governments that obtain surplus property from the state will want to see any legislation that might be proposed to determine if it would affect them.