



Mandates and barriers to innovation

The issue of mandates is complex and multi-faceted. While the overall reformation of mandates may be a difficult and time-consuming effort, a start can be made by identifying some requirements that the administration and/or General Assembly can quickly address.

Even if state mandates are justified through a proposed process that would change the way state agencies enforce them, localities should have the authority to seek waivers or access an appeals process related to mandates and state regulations in order to encourage innovation, regional approaches and other cost efficiencies at the local level. At the very least, such a process would highlight the need for further consideration of “unintended consequences.”

The list that appears below reflects Gov. Bob McDonnell’s direction to his commission on reform to explore opportunities to make government more efficient, effective and simpler and to re-evaluate administrative and regulatory measures to remove barriers to lower costs and better public services.

This list reflects input from Virginia’s local government organizations as well as localities across the Commonwealth. Thousands upon thousands of dollars and hours of valuable time are wasted each year as legislators and the Division of Legislative Services staff work on legislation on topics that are more appropriately handled at the local level. The state code contains numerous examples of unnecessarily restrictive language that inhibits efficiency, improved public services and innovation.

As an example of the specificity of existing law, consider this code section relating to animal licenses:

§ 3.2-6528. Amount of license tax.

The governing body of each county or city shall impose by ordinance a license tax on the ownership of dogs within its jurisdiction. The governing body of any locality that has adopted an ordinance pursuant to subsection B of § 3.2-6524 shall impose by ordinance a license tax on the ownership of cats within its jurisdiction. The governing body may establish different rates of taxation for ownership of female dogs, male dogs, spayed or neutered dogs, female cats, male cats, and spayed or neutered cats. The tax for each dog or cat shall not be less than \$1 and not more than \$10 for each year. If the dog or cat has been spayed, the tax shall not exceed the tax provided for a male dog or cat. Any ordinance may provide for a license tax for kennels of 10, 20, 30, 40, or 50 dogs or cats not to exceed \$50 for any one such block of kennels.

No license tax shall be levied on any dog that is trained and serves as a guide dog for a blind person, that is trained and serves as a hearing dog for a deaf or hearing impaired person or that is trained and serves as a service dog for a mobility-impaired person.

As used in this section, “hearing dog” means a dog trained to alert its owner by touch to sounds of danger and sounds to which the owner should

respond and “service dog” means a dog trained to accompany its owner for the purpose of carrying items, retrieving objects, pulling a wheelchair or other such activities of service or support.

(1984, cc. 248, 492, § 29-213.57; 1986, c. 169; 1987, c. 488, § 3.1-796.87; 1993, c. 817; 1994, c. 108; 2006, c. 836; 2008, c. 860.)

Is it really a core service of the state to control how much a dog license costs? Other than statutes relating to service animals, why wouldn't localities have the flexibility to handle this issue themselves? There has to be a better way to authorize local governments to impose animal licenses.

A second example: Currently the definition of industrialized buildings encompasses bus shelters. However, bus shelters, which are small structures designed to provide protection from the elements for transit patrons, are much less complex than other industrialized/modular buildings and should be subject to less rigorous application and permit requirements. The current permit process for bus shelter installation can take months to complete. Revising installation requirements will remove bureaucratic layers, save months of time for completion, and reduce costs.

A third example concerns small improvement and construction projects subject to permitting and approval by state transportation agencies. In one instance in Fairfax County, a bus stop improvement plan to install a five-foot by eight-foot concrete loading pad began on Oct. 17, 2007. Due to the Bureau of Capital Outlay Management permit processes, including time-consuming reviews and inspections, the project, which totaled \$13,020, was not completed until after July 22, 2008. Allowing a blanket permit process for such projects could accelerate their completion by several months and more quickly improve pedestrian and road conditions. This will remove bureaucratic layers, save months of time for completion, and reduce project costs.

The list below is by no means a complete one, but includes a variety of requirements that could be addressed in the next session of the General Assembly. To take action on these items would send a signal that the administration and General Assembly are serious about getting results in reforming government.

One of the unintended consequences of the Dillon Rule is to encourage very narrow interpretations of laws, to the point of running afoul of the governor's desire to relieve unduly burdensome requirements relating to ministerial local functions. One solution, which does not violate the Dillon Rule, could be to support an amendment to Title 1 of the Code of Virginia stating: “Any act of general law that supplements special legislation shall prevail unless the general law provision provides otherwise.” Adoption of this or similar language would negate the need for separate legislation on some of the items presented below, and would relieve the General Assembly of using its valuable time to address issues that do not represent core priorities and statewide public interests.

Local governments should have the authority to:

1. Set the cost of pet licenses.
2. Provide for the cutting of grass and weeds on properties within their boundaries.
3. Include mosquito control in an existing gypsy moth control tax district.
4. Consolidate the functions and activities of the general government and those of the local public school division specifically for the acquisition, or improvement of real property, including the administration of any capital construction project for public educational purposes.

5. Consolidate the functions and activities of the governing body and those of the local school division for the purchasing functions, building and vehicle maintenance and any other function that now requires the consent or a request of the local public school division as required by State law.

6. Establish alternatives to publication in a newspaper of general circulation for legal ads and other notices, such as allowing publication in at least two of the following forms of publications: (i) newspaper of general circulation in the locality, including online newspapers, if any; (ii) locality's website and community/neighborhood websites; (iii) public access channel operated by the locality, to be aired during prime time programming and at least two other times during the day; (iv) automated voice or text alert system used by the locality; or (v) postings at the local public library.

7. Allow localities and state agencies to bid together for services such as health, vision and dental insurance.

8. Change the certified and registered mail requirements for notices by local government to allow notice via regular mail to the last addresses available through government records. Requirements to use certified and registered mail unnecessarily increase the cost of notices. The Commonwealth of Virginia now sends many drivers license renewals and licenses via regular mail - not registered mail. Despite the increased scrutiny of license issues and photos in the wake of security enhancements since 9/11, the renewals and licenses are still sent via regular mail.

9. Eliminate requirement for copies of cancelled checks when localities claim reimbursement from the state, and instead authorize local governments to certify that these are true costs.

10. Exempt local governments from the unclaimed property laws, or at a minimum, increase the threshold to a more reasonable level, such as \$5000. Currently, local governments must forward to the state uncashed checks that have been sent to vendors. There is an intensive process involved to send the letters and document the work.

Transportation

Local governments have identified a number of unduly restrictive requirements that do not add value to transportation services but instead make it more time consuming and expensive for local governments to deliver.

Therefore, local governments should be granted the authority to:

1. Design and build local bus stops and pedestrian facilities.
2. Determine the color of local public vehicles.
3. Allow quick take for pedestrian improvement condemnations to facilitate a faster negotiation process with property owners for pedestrian access and safety.
4. Develop an expedited process for installation of bus shelters.
5. Establish a blanket permit process for transportation agencies for small improvement and construction projects that do not exceed a set amount.

6. Grant localities the authority to install Watch for Children and school speed zone signs.

7. Exempt new bike and pedestrian trails adjacent to existing roadways from stormwater runoff regulations.

8. Direct the commissioner to develop a process that includes alternative compliance methods for localities to meet the state acceptance process for roads established in older communities prior to 1932, the enactment of the Byrd Road Act which created the state secondary road system.

9. Install photo red light cameras as needed in the local government.

The Comprehensive Services Act

Local governments can technically work together on this expensive and complicated human services program, but there's little incentive to build regional services for the following reasons:

- Each locality has a different match rate for the CSA program. If localities in a region want to try to create a single program to serve children in their area, the differing match rates remain. If localities could use the lowest match rate of the locality in that region, there would be more incentive in many parts of the state for localities to build those regional services to serve children and families on a more cost-effective basis. It would also be more cost-effective and therefore attractive to private providers who could create a single program for an area.

- The CSA program has a state "pool" of funds from which each locality gets an allocation each year (each locality also pays a local match for funds it uses). Localities are unable to obtain any of this pool funding upfront to create services in their communities. Funds can only be used on a "per child" basis, and are only granted on a reimbursement basis. This creates a disincentive to build programs that can serve a number of children and families. If localities could use even a portion of its share of pool funds to build services upfront (through a private or non-profit vendor in most cases), the infrastructure would be there to serve more children and families, which could give some economies of scale for the locality and the taxpayers.