



## Unfunded mandates and shared state-local programs

*The ideas and suggestions in this paper stem from suggestions made at a June 10 meeting of local legislative liaisons, and from suggestions forwarded by individual localities. There is probably not complete agreement on many (if any) of these items among all local governments.*

*They are presented below to give suggestions on how the Intergovernmental Relations Committee can proceed to tackle its assignments.*

### **Issue**

A multitude of local government services are driven by state requirements. Indeed, local governments deliver more state services than state agencies do. Reliance on local government for the delivery of state services has led to inefficiency in the delivery of some services, a growing disconnect between authority for setting the parameters of service and the responsibility for delivering the service, and a lack of consistent and reliable funding.

### **Background**

The state requires cities and counties to deliver, to participate in the delivery or to fund many services including education, social services, mental health, health, election administration, incarceration, courts and judicial administration, and transportation. Other local services are driven by state requirements such as training requirements for police, animal control officers, building officials and inspectors, emergency medical technicians and other personnel; environmental requirements and standards for facilities including jails, animal shelters, and so forth. As a result, numerous opportunities exist for disagreements over funding, service responsibility, transparency and standards.

A different approach to service delivery would be to clearly assign responsibility for functions to either the state or to local governments. Possibilities include the state assuming service delivery of some functions or sub functions, contracting for service delivery with local governments in order to clearly delineate responsibilities and service delivery outcomes, and the elimination of state responsibility for areas that are not core state functions.

### **Possible Approaches**

#### **Human services**

##### *Short term*

- Examine whether the state should determine eligibility for Medicaid and social services. Technology and computer software is available to determine eligibility for programs and other administrative functions. State determination of eligibility for Medicaid also may make it easier for the state to meet upcoming deadlines under federal health care reform.

- Study the elimination of the free-standing State Executive Council for the Comprehensive Services Act and the placement of this function under the jurisdiction of the Secretary of Health and Human Services or some other agency subject to the Administrative Process Act. If the SEC is not eliminated, it should be made subject to the Administrative Process Act, and local representation should be increased to reflect the ever-increasing importance of local funding in the CSA program.
- Enable local Comprehensive Services Act agencies to jointly negotiate for services, and/or have the state negotiate contracts for services to be delivered through local CSAs. This would allow for some economies of scale to be realized, as presently smaller agencies are at a distinct disadvantage in trying to negotiate contracts for community-based services.
- Encourage consolidation of human services delivered at the local level through the use of financial and other incentives, such as enhanced reimbursement rates for localities.

#### *Longer term*

- Consider if the state should assume responsibility for social services in exchange for local governments assuming responsibility for some other state-local service.
- Establish a contractual relationship whereby the state contracts with local governments for the delivery of social services, enabling requirements, funding and accountability standards to be set for both the state and local governments, and allowing for changes in service levels when funding is cut.

### **Education**

#### *Short term*

- Grant local governing bodies the authority to compel the consolidation of non-classroom school functions, where cost beneficial and operationally efficient. Some examples include:
  1. Administration of any capital construction project for public educational purposes.
  2. Purchasing functions, building and vehicle maintenance, personnel, printing, grounds maintenance and any administrative function that now requires the consent or a request of the local public school division.
- Consider asking the U.S. Department of Education for a one-year waiver of IDEA spending requirements for FY11 or FY12 as allowed under federal law. The states of Iowa and Kansas have both been granted waivers. Iowa was able to decrease its spending by \$38 million in FY10, which amounted to 7.2 percent of spending in special education. (Reference: *Education Week*, June 15, 2010)

#### *Longer term*

- Have the Virginia Department of Education examine state laws and regulations in education to determine:
  1. Which are required under federal laws, which are not required, and which exceed federal requirements (as is the case with special education).

2. Which statutes and regulations are not recognized under the Standards of Quality (and therefore are not funded).
  3. Which unfunded regulations or mandates should be eliminated.
  4. Which unfunded regulations or mandates should be funded.
- Offer a state plan for health insurance for teachers and other school employees. Currently each school division is on its own in negotiating health insurance, and smaller divisions in particular have difficulties in finding affordable policies.

## **General government**

### *Short term*

- Enact legislation to require that bills creating a new mandate or significantly increasing current mandates, and bills eliminating or curtailing local revenue authority, would not take place unless re-enacted the following session. In the interim the new requirements would be studied to determine more authoritatively the financial or operational impacts of the new or expanded mandate or the loss of revenue.
- Allow localities and state agencies to bid together for services such as health, vision and dental insurance.
- Consider if the state should assume full responsibility for election administration (which could be combined with DMV operations for efficiencies). Local government has little or no authority over election administration but is responsible for most of the cost of voter registration and the holding of elections.
- Study whether probation and parole services should be consolidated within a state agency other than the Department of Corrections (such as the Department of Criminal Justice Services). Alternatively, consolidate probation and parole services at the local level in exchange for the state assumption of some other responsibility.
- Eliminate the state role in animal control except for the requirement that animals receive rabies vaccinations, and grant local governments the authority to carry out this function. Animal control is not a core state function.

### *Longer term*

- Phase out state use of local jails for housing state-responsible prisoners. Should the state use local jails, the arrangement should be according to a contractual agreement between the state and localities that reflects the actual operating/debt service costs of running the jail.
- Study the placement of all responsibility for the court system at the state level, thereby eliminating local financial support for offices, staff, or buildings.
- Study the appropriate responsibility for funding and administration of constitutional officers.