BETTER COMMUNITIES THROUGH SOUND GOVERNMENT

2027~~5~~ 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's counties, cities and towns need legislation that provides the maximum opportunity to foster improved quality of life and high-quality growth.

I. EFFECTIVE GOVERNMENT

GOVERNMENT STRUCTURE

The General Assembly should allow significant diversity among municipal charters and not impose uniformity. Charter amendments requested by the local governing body should be supported by state government; local governments have vetted these changes based upon their experience at the local level.~~.~~

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

The addition of sub-state and special district governments should be controlled. New districts should not be created by the General Assembly unless local governments are unable to furnish services. 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. Local government officials are elected by their citizens; decisions made should be respected by state officials.

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. The General Assembly should respect the reversion process as outlined in the state code.

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. In addition, local governments who provide redundant services should work together so the citizens receive the necessary services without an additional cost burden.

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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 or regulations affecting local government without substantial local input from affected jurisdictions and participation in developing those changes.

VML opposes legislation that:

1. bars courts from awarding attorney's fees to local governments when a frivolous suit is filed; and
2. eliminates the notice of claim requirement found in Va. Code, § 15.2-209.

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

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

TOWNS

The General Assembly and the executive branch should recognize towns as essential units of local government, with important roles in providing services to citizens living in a concentrated environment. As such, towns with their centrality and economic efficiency represent the future of the urbanizing areas of the Commonwealth. Towns should have clear and full authority to be formed and to act in a timely manner on matters which protect public health, safety, and welfare. Towns should have referendum authority for local decisions.

The General Assembly should respect and support the sovereignty, utility, and urban powers of towns. No legislation should be enacted that allows counties to usurp or diminish the authorities of towns nor dissolve a town unless at their own request. Excise taxes that counties are authorized to levy generally must not apply within towns without the explicit approval by the town's governing body.

Towns should retain the right to annex lands and otherwise expand their boundaries. Towns over 5,000 population should have the right to become independent cities; and cities, as stipulated in the Code of Virginia, should have the right to revert to town status.

The General Assembly should scrutinize bills dealing with laws of general applications to local governments, to avoid enacting any laws that could be sources of possible conflicts between counties and towns. The following list provides examples of conflicts between towns and counties exacerbated by legislative action:

1. taxation of town residents by county governments at the same rate as that applied to those living in the county's unincorporated areas, when comparable benefits and services are not provided;

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2. county imposition of a merchants' capital tax on businesses located within the town at the same rate as that applied to businesses located in unincorporated areas of the county, when the town levies a business, professional and occupational license tax;
3. unequal town zoning and planning authority for land straddling or abutting town corporate boundaries and unincorporated county areas;
4. funding of county sheriffs' and deputy sheriffs' salaries by the State Compensation Board and other state-funded amenities not provided to town police departments; and
5. unequal statutory authority of towns in relationship to that of cities and counties;~~.~~
6. towns should retain the right to hold their own referendum.

The General Assembly should recognize the unintended consequences of inadvertently omitting towns or cities or counties from legislation. The state laws on local taxes must allow towns to determine how tax dollars collected from residents and businesses of the town will be used.

ELECTION LAWS

Non-partisan local ~~elections~~élections. VML opposes attempts to require that candidates nominated by political parties for local elections be identified by party labels on ballots. Nationwide, about 75 percent of municipalities have non-partisan elections. Virginia is not unique in this regard.

There is not a partisan way of responding to public safety, street improvements, enforcing the codes, or taxation required for the numerous services that the state requires localities to offer (and to pay for). The result of requiring party identification will be increased partisanship at the local level, which will not improve local governance.

In addition, requiring party identification will further hinder the ability of Federal Employees including our Military to participate as local elected officials.

Administration of election laws. Cities and counties have very little control over the administration of elections, yet pay the majority of costs, including office overhead, voting equipment, equipment storage and security maintenance, training of staff, safety of staff, and printing of ballots. Cities and counties also pay a portion of the costs of the salaries for registrars and members of electoral boards, to include salaries for staff other than the registrar, but have no direct connection to the appointment of these officials. The state should provide an adequate level of funding for local election administration that is commensurate with the State's extensive control of the process. The General Assembly should not increase the cost of election administration without providing state funding to pay for the increased expenditures.

~~**Rank Choice Voting**. VML recognizes that as technology continues to advance, the capability and types of voting machines available on the market and in localities will continue to adapt. Not every machine can currently accommodate rank choice voting and purchasing new machines can be expensive. Regardless of availability, VML believes that cities and counties should maintain the authority to decide if the locality will use rank choice voting.~~

Timing of Elections. VML supports maintaining the option to have staggered termed elections for all localities."

Vote Centers. VML supports the convening of a work group, consisting of relevant stakeholders including but not limited to VML, the Virginia Electoral Board Association, the Virginia Registrars Association and VACo, to study the feasibility of creating vote centers. Local government approval should be required before any implementation of any recommendations to consolidate or eliminate polling locations on Election Day to create vote centers.

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STATE AND FEDERAL MANDATES

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

The federal and state governments should not use project funding as a means of forcing local land use decisions in contravention to local land use plans. These actions violate the principles of local authority and weaken the local tax base.

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

The Governor and General Assembly should promote state-local partnerships by requiring:

1. A review of mandates in specific program areas to (a) establish the full cost to local governments of implementing mandates and (b) develop an equitable basis for determining state-local funding responsibilities.
2. Completion of cost estimates for proposed legislation prior to its first full review by a legislative committee, with legislation negatively affecting local governments' revenue-raising ability being submitted to the Commission on Local Government "COLG" for a fiscal impact analysis.
3. Use of a performance-based approach to mandates that (a) focuses on outcomes, (b) offers incentives for achieving state objectives, and (c) gives local governments autonomy to determine the best way to achieve the desired result.
4. Simplification of state reporting requirements associated with mandates, greater efficiency and coordination, and making better use of reporting technology.

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

STATE AND LOCAL RESPONSIBILITIES

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

In addition to the state-mandated services, localities provide other services that are either necessary (water and sewer, police and fire protection, etc.) or desired by residents (parks and recreation, cultural activities, etc.). Local governments need the flexibility and resources to collect revenues to meet all their responsibilities.

Two fundamental problems in Virginia's intergovernmental structure are first, the state does not fund at adequate levels, existing services, particularly education and law enforcement, that it requires local governments to provide; and second, local officials have very limited revenue options, which forces them to rely heavily on real estate, personal property taxes and other local revenue sources to pay for services.

Further, to improve the relationship of the state and local governments, the state should:

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1. Not restrict the taxing authority and revenue sources of local governments without local concurrence.
2. Strengthen the partnership of the state with local governments by granting local government full authority to deal effectively with issues affecting their own locality.
3. Participate as a financial partner with local governments in the costs of education, including school construction and renovation, and, as an active partner, fully fund the state's fair share of the costs of education.
4. Follow specific procurement procedures before purchasing property, including adequate inquiry into the purchase, public hearings and notice, and notice of intent to settle sent to the locality. In addition, the state should consider remuneration to the locality for the loss of real estate taxes as well as any loss in economic development potential. The state should not interfere with the procurement tools currently available to local government including cooperative procurement.

FREEDOM OF INFORMATION AND THE ADMINISTRATION OF GOVERNMENT

VML strongly supports the free flow of information to citizens and the media through the conduct of governmental affairs at all levels in the open, in good faith compliance with the Freedom of Information Act (FOIA). VML also supports efforts to educate local government officials about the Act, and the importance of extensive and accurate reporting of government affairs.

Any proposed FOIA legislation should be reviewed by the FOIA Council prior to being enacted.

The use of electronic meetings should be allowed during a state of emergency when social distancing is a necessity. VML supports the option of all local and regional bodies to meet electronically with public participation without a state of emergency in place.

Citizens have the right to have personal information protected. Government also must be able to control its work processes so that public business can be conducted. It is in the public's interest to conduct some matters outside public view prior to official action. Accordingly, VML strongly opposes extending limitations on closed meetings and exempt records, which would upset the Act's careful balance among a fully informed public, the protection of individuals' privacy, the ability of government to conduct its work and those matters for which the premature release would not be in the best interest of the locality or its citizens. VML opposes legislation that would require localities to record closed session in any manner.

VML supports legislation that allows the redaction of email addresses furnished in confidence to a local governing body with respect to complaints in local investigations to include local public health and safety, nuisance, waste and recycling complaints.

In addition, localities should be able to continue charging reasonable fees for any and all records, including for research time and for computer records that must be provided under the Act to avoid shifting the cost of copying from the requestor to the general taxpayers. The Act should continue to limit rights to documents to citizens of the Commonwealth and news organizations that publish in the Commonwealth.

VML opposes any further legislation that would control the time allotted for public comment at public meetings. While VML supports public comment, localities should have the discretion to determine procedures for when public comment should be taken.

VML opposes legislation to limit the use of any legitimate means of communications from one elected official to another, including letters, emails and conversation. The General Assembly should not exempt itself from anything that it imposes on a locality. The "working papers" exemption should continue to remain in place.

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State policy must assist local governments to contact and notify their citizens in the most efficient and cost-effective manners possible. Ads required by the *Code of Virginia* are increasingly more expensive to run in the newspaper and often are only seen by a decreasing number of citizens. The current trend is for local newspapers to reduce the number of times they are published weekly and/or going to an online platform. This has resulted in localities needing to meet certain advertising requirements with only expensive newspapers available for legal notices.

A locality's internet presence, social media, local cable access channels, local radio, and TV provide alternative methods to contact the citizens much more broadly and effectively than newspaper ads in many areas of the Commonwealth. The state code should be amended to allow local governments electronic and other alternative means of communicating with their citizens when providing required legal notices.

GOVERNMENTAL & MUNICIPAL OFFICIAL LIABILITY

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

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

The Virginia General Assembly should strengthen and must maintain the principles of sovereign immunity for local governments and their officials.

VML strongly opposes bringing local governments under the Virginia Tort Claims Act. This action would seriously erode the sovereign immunity doctrine and lead to a substantial increase in frivolous suits.

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

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

PERSONNEL

Management has the responsibility to ensure that employment, training, and promotional opportunities are provided without regard to any unlawful discriminatory factor, qualified persons with disabilities or any other factors not related to job performance.

VML supports:

1. the current injury by accident definition in the Virginia Workers' Compensation Act.
2. the current Workers' Compensation Act provisions for use of an employer selected panel of physicians to treat injured workers.
3. maintenance of the exclusive remedy provisions of the Virginia Workers' Compensation Act.
4. local governments' authority to establish hours of work, salaries, and working conditions for local employees.

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5. VML continues to support the current rules for work-related disability benefits.
6. VML supports current right to work laws as they pertain to local government.

VML opposes:

1. Any attempt to require collective bargaining or 'meet and confer' requirements for public employers or employees; and
2. Any attempt by the federal government to stipulate grievance procedures for state and local employees or additional state government procedures, such as the police officers bill of rights.

LINE OF DUTY ACT

The cost of the current Line of Duty Act is not sustainable for either the state or local governments.

VML supports recommendations and options made by the Joint Legislative Audit and Review Commission for the Line of Duty Act program that would ensure the fiscal sustainability of the program and ensure that the benefits are available to those who need and deserve them. Further, VML supports a new, dedicated funding source to pay for LODA benefits, but opposes any funding approach that would rely on or adversely affect existing local revenue sources. Adding additional members to the Line of Duty Act would further burden the state and local governments.

TELECOMMUNICATIONS AND BROADBAND - LOCAL GOVERNMENT PRINCIPLES

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

VML supports legislation that promotes and protects the ability of localities to establish, operate, and maintain sustainable and affordable broadband authorities to provide essential broadband to all communities throughout the Commonwealth of Virginia.

1. **Public Rights-of-Way.** Local rights-of-way are public property. The rights-of-way contain numerous utility and other facilities. Proper management and maintenance of rights-of-way are essential to ensure public safety, to protect the integrity of the property, to guarantee the safety of workers and to maintain the efficiency of local streets, utility systems, and transportation facilities and networks. Private use of public rights-of-way significantly increases management responsibilities and maintenance costs. Any private use of public rights-of-way should be valued at fair market value.
2. **Franchise authority.** Neither the federal government nor the state should enact any laws to shift the award of franchises to use the public rights of way from the local governing body to any state or federal agency. Individuals and businesses in the community help to buy and maintain rights-of-way through their taxes. Rights-of-way should not be used for private purposes without approval by and compensation to the local government for the right to use the space, and local governments must have authority to control the rights-of-way. The procurement process for franchise authority should be streamlined.
3. **Equitable Taxation.** Telecommunications providers are valued members of our corporate community. All members of the corporate community must pay taxes on an equitable basis, as appropriately determined by the local government. No legislation should restrict the ability of local governments to impose equitable taxes on telecommunications providers.
4. **Universal Service and Consumer Access.** Important educational and community services are provided via telecommunications. Telecommunications providers must be responsive to

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citizen needs and concerns and provide appropriate customer services to all segments of our community so that disparities due to income or geographic location affecting citizen access to new technology are minimized.

5. **Competition.** Local governments are interested in healthy competition in the field of telecommunications. To ensure a competitively neutral and non-discriminatory market, all service providers must pay fair compensation for the use of public property. Governments should not be forced to subsidize some participants in this free-market competition through lower-than-fair-market charges or any other means.
6. **Local Government as Customers.** Local governments are important consumers of telecommunications services. In many communities, the local government is the single largest customer of telecommunications services through its government offices, education facilities and emergency communications. As valuable customers, local governments should be treated equitably.
7. **Private Equipment placed on Public Facilities.** Local governments should continue to have the authority to approve the location and fees for any attachment or co-location of communications infrastructure on local government buildings and facilities.
8. **Broadband and Local Governments.** VML supports efforts to make affordable broadband access available to all Virginians. VML believes there are several ways to achieve this goal and no one technology or method of delivery should be chosen as the answer for our geographically diverse state. While public-private partnerships between a local government and a broadband provider may be the right approach for some communities, a municipal government broadband authority owning and operating a new project may be better for others. State grants should allow localities, groups of localities, municipal broadband authorities and public-private partnerships to submit applications for state grants without prejudice to the applicant.
9. **5G.** The current 5G statutes have eroded the authority of localities to charge fair market value, add appropriate screening, and control placement of these facilities along with added undue burdens in the form of shot clocks and limited review of applications. VML supports the ability of localities to ensure that their communities retain their unique character to include regulating these structures, particularly in historic areas.
10. **Communication Sales and Use Tax.** The communication sales and use tax statute needs an amendment in light of later FCC rulings, to clarify that the statute's prohibition of franchise fees refers only to monetary fees and does not present localities from negotiating non-monetary benefits.
~~10.~~11. VML supports allowing unobligated Broadband State Funds in form of grants to be used for unexpected costs incurred by broadband providers related to the expansion of broadband; specifically for utility pole replacements, mid-span pole installations, railroad crossings and if cost-effective undergrounding of broadband lines.

TECHNOLOGY

Local government should maintain its authority to address and implement its unique cybersecurity plan without state interference.

When a local government has a cybersecurity incident it should have the time and ability to consult with their own consultants and law enforcement prior to any state involvement.

Local governments should have authority to regulate the use of unmanned aerial vehicles in their jurisdictions insofar is as consistent with FAA regulations. Especially when such systems are utilized to

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support a local governing body or authority authorized under title 15.2 for purposes of inspecting their own facilities, assessing damage caused by natural or manmade disasters, and by fire and rescue personnel for purposes of assessing an emergency to which they are responding.

Artificial Intelligence. The use of artificial intelligence (AI) has become commonplace in daily life and local operations. Local governments have become reliant on AI and should retain the ability to continue utilizing the technology. The State should not mandate or squander the ability of all localities to determine how best to use AI nor should the State require unreasonable reporting requirements.

VML supports measures to strengthen cyber security, prevent phishing schemes, and ensure citizens of a community trust in communications from their government. However, if the General Assembly efforts to do so by mandating localities to change web and email domains to dot-gov addresses, the state should provide adequate funds to make this change.

UTILITIES

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

1. Each provider of service must be free to set its rates without interference from other local governments or the state.
2. Each local government providing utility services must be able to compete fairly with any other providers without state interference.
3. Each local government that provides utility services must be able to manage its revenues and expenditures related to the services without state interference.

Virginia's localities and water and sewer authorities must retain the ability to enforce liens against landlords' properties for the unpaid water and sewer bills of their tenants by having the ability to collect monies owed. No further limits should be placed on this authority.

Municipal utility systems must continue to have the authority to set their own rates. Any attempt by the State Corporation Commission to regulate rates for utility services furnished by local governments would violate the Virginia Constitution.

Local governments that provide utility services must continue to have the authority to negotiate the rates, terms, and conditions for any attachments to or joint use of municipally owned utility infrastructure. The safe and efficient operation of the municipal utility requires that final approval for any joint use or co-location on its facilities remain with the utility.

The State Corporation Commission should develop a structure to ensure that the amounts that utilities can charge localities and other entities for placing electric utility lines and other facilities underground are based on the most cost-effective, competitive, yet safe methods.

II. PUBLIC SAFETY

VML supports legislation that preserves law and order and promotes the safety, quality of life and administration of justice within our communities. The Commonwealth should provide funding for programs that prepare our youth to be productive, responsible, self-reliant members of society by enhancing its efforts to prevent juvenile crime, minimize violence, and reduce the formation and operation of gangs.

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The state should continue to assist localities in their efforts to coordinate public safety activities including emergency services.

VML supports legislation that will clearly establish the relationships between State and localities to assure efficient and appropriate command, control, and communications during local emergencies.

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

Next Generation 911 is vital to public safety in the Commonwealth; we support this technology as a funded mandate.

Greater latitude should be given to localities in encouraging innovative methods of combating traffic violations and crime. This includes reviewing the current traffic violation code sections to include a review of equity of safety.

VML supports expanded legalization of speed cameras if the area in which they are placed has been documented as an area of concern; a speed study, crash data, etc. . VML supports the establishment of School Crossing Zones as defined in 46.2-873 for highways located within the grounds of a public institution of higher education as defined in 23.1-100 or within one-half mile of the grounds of a building or property used by the Public Institution of Higher Education.

VML supports full restitution for any law enforcement response that is a hoax.

VML supports local jurisdictions efforts to maintain animal shelters in a fiscally responsible manner and does not support any state or federal mandate that would provide a financial burden on local animal shelters.

MARIJUANA-RELATED POLICE TRAINING

VML is concerned that the Commonwealth may experience sky-rocketing roadside fatalities and accidents with injury, as evidenced in states where marijuana became legal prior to 2021. The ramifications of legalization of marijuana for personal use make it imperative that resources for marijuana-related police training be prioritized for the following reasons:

- There are not enough qualified DREs (Drug Recognition Experts) in the state of Virginia. To be certified for DRE, officers must attend a combination of approximately 120 hours of classroom instruction and apprenticeship in the field.
- Due to staffing shortages, agencies lack time to send officers to the required DRE classes even if funding and training are available.
- Ambiguous laws on legal traffic stops and field sobriety will likely result in prosecutorial challenges due to lack of training in roadside testing methods, no per se limit for presumption of impairment for drugged driving, and the absence of an approved instrument to test levels of drugs in the blood. Additional training is also needed for prosecutors to achieve successful outcomes in court for drugged driving offenses.

VML supports significant and immediate resources for marijuana-related police training.

SKILL GAMES

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VML supports a local referendum for Skill games that provides counties, cities and towns to hold their own. VML also supports local taxation of Skill Games and the retention of local zoning authority.

COMMUNITY CORRECTIONS

VML requests both increased funding and an equitable distribution formula for services provided under the Comprehensive Community Corrections Act (CCCA) and the Pre-Trial Services Act (PSA). Since the advent of these programs in 1995, caseloads have effectively doubled at the local level, while state resources have failed to meet the caseload increases. These resources are allocated to localities on a discretionary grant basis. Given the statewide character of this program, it is now time to allocate these funds through an equitable formula that recognizes regional costs and benefits of these services.

COURT FEES

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

COURT SECURITY

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

INTERNAL AFFAIRS INVESTIGATIONS

Legislation should be enacted to restrict the use, in civil matters, of information gathered in internal investigations.

OVERCROWDING/STATE SUPPORT

The state should honor its commitment to remove state prisoners from local jails.

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

Jails built by a single large locality should be eligible for the same state reimbursement rate for construction as a regional jail facility.

Local governments should not be forced to pay for state prisoners. The state reimbursement rate must be restored to an amount that is fair to localities reflecting actual costs.

TRAINING ACADEMIES

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

VIOLENCE/TERRORISM

The General Assembly should enable localities to help communities deal with criminal issues by:

1. expanding state and local cooperative efforts in neighborhoods and localities,
2. promoting additional prevention and intervention programs to deal with youth who may adopt a violent way of life, and
3. granting localities more flexibility to handle problems of abandoned and blighted structures.

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