
2017 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.

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 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.

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 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.

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. Excise taxes that counties are authorized to levy generally must not apply within towns without the explicit approval by the town's governing body.

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;
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;
5. unequal statutory authority of towns in relationship to that of cities and counties; and
6. allowing county excise tax within a town without approval of the town government.

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.

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 should have the right to revert to town status.

ELECTION LAWS

Redistricting. VML recognizes that while redistricting is a political process, the process should be conducted with the end goals of ensuring a strong and responsive representative form of government that enables citizens with communities of like interest to influence election outcomes through participation in the political process.

VML supports redistricting reform, including the use of a non-partisan independent commission to draw state legislative and Congressional lines based on specified and consistent criteria, including insofar as possible preservation of the integrity of existing city, town, county and precinct lines.

Non-partisan local elections.

VML opposes attempts to require that candidates nominated by political parties for local elections be identified by party labels on ballots.

Non-partisan elections at the municipal level are an outgrowth of the municipal reform movement that began developing at the end of the 19th century in reaction to corruption at the local level. Another outgrowth of the excesses of local political machines was the development of the council-manager form of government and the development of a civil service personnel system. 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 various 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.

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, 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.

Timing of municipal elections. VML opposes legislative attempts to require that municipal elections be held in November. Localities should continue to retain the ability to determine if their municipal elections are held in May or November.

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.

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

8

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

- 12 1. A review of mandates in specific
13 program areas to (a) establish the full
14 cost to local governments of
15 implementing mandates and (b)
16 develop an equitable basis for
17 determining state-local funding
18 responsibilities.
- 19 2. Completion of cost estimates for
20 proposed legislation prior to its first
21 full review by a legislative
22 committee, with legislation
23 negatively affecting local
24 governments' revenue-raising ability
25 being submitted to the Commission
26 on Local Government "COLG" for a
27 fiscal impact analysis.
- 28 3. Use of a performance-based
29 approach to mandates that (a)
30 focuses on outcomes, (b) offers
31 incentives for achieving state
32 objectives, and (c) gives local
33 governments autonomy to determine
34 the best way to achieve the desired
35 result.
- 36 4. Simplification of state reporting
37 requirements associated with
38 mandates, greater efficiency and
39 coordination, and making better use
40 of reporting technology.

41

42 The alarming tendency of state and federal
43 agencies to treat guidelines authorized by
44 enabling legislation as having the stature of
45 law itself must cease. In addition, the state

46 should avoid unessential and arbitrary
47 implementation of federal regulations.

48

49 **STATE AND LOCAL** 50 **RESPONSIBILITIES**

51 The state requires local governments to
52 provide certain services, such as education,
53 corrections, social services, health and
54 community mental health. The local
55 government does not have the option of not
56 being the state's service provider in these
57 areas. "State aid" to localities is the state's
58 payment for the implicit contractual
59 arrangement for this assignment of duties.

60 In addition, local governments must
61 contribute local funding to these services.

62

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

71

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

82

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

86

87 1. Not restrict the taxing authority and
88 revenue sources of local
89 governments without local
90 concurrence.

91 2. Strengthen the partnership of the
state with local governments by

granting local government full authority to deal effectively with social problems.

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 General Assembly should continue its involvement with and financial support of the Virginia Institute of Government.

FREEDOM OF INFORMATION

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. VML also supports efforts to educate local government officials about the Act, and the importance of extensive and accurate reporting of government affairs.

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.

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 here.

VML opposes legislation that would require localities to record closed session in any manner.

VML opposes 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 others, including letters, emails and conversation.

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

1 chilling effect on the actions of local
2 government officials contributing to local
3 government insurance problems, creating
4 immense financial risks (particularly for
5 legal costs), and posing a substantial
6 obstacle to the provision of needed public
7 services.
8
9 The Virginia General Assembly should
10 strengthen and must maintain the principles
11 of sovereign immunity for local
12 governments and their officials.
13
14 VML strongly opposes bringing local
15 governments under the Virginia Tort Claims
16 Act. This action would seriously erode the
17 sovereign immunity now enjoyed by
18 Virginia local governments and lead to a
19 substantial increase in frivolous suits.
20
21 The tort reparations system in the U.S.
22 creates many difficulties in the
23 administration of justice. VML supports
24 efforts at the national and state levels to
25 address tort reform, such as limitations on
26 the tort liability of local governments in
27 areas where local governments do not enjoy
28 sovereign immunity.
29
30 The General Assembly should adopt
31 legislation to codify the proposition that real
32 property of local governments shall be
33 exempt from liens created by statute or
34 otherwise. This proposition has already
35 been recognized by the Virginia Supreme
36 Court for mechanics liens.

37 **PERSONNEL**

39 Management has the responsibility to ensure
40 that employment, training, and promotional
41 opportunities are provided without regard to
42 any unlawful discriminatory factor, qualified
43 persons with disabilities or any other factors
44 not related to job performance.
45 VML supports:

- 46 1. Compensability for work-related
47 heart/lung/cancer employee
48 disability benefits for any class of
49 employees should be determined by
50 establishing whether work or non-
51 work related risk factors are more
52 likely the primary cause of the
53 claimant's condition.
- 54 2. the current injury by accident
55 definition in the Virginia Workers'
56 Compensation Act.
- 57 3. the current Workers' Compensation
58 Act provisions for use of an
59 employer selected panel of
60 physicians to treat injured workers.
- 61 4. maintenance of the exclusive remedy
62 provisions of the Virginia Workers'
63 Compensation Act.
- 64 5. local governments' authority to
65 establish hours of work, salaries and
66 working conditions for local
67 employees.

68 VML opposes:

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

78 **Line of Duty Act**

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

83
84 VML supports recommendations and
85 options made by the Joint Legislative Audit
86 and Review Commission for the Line of
87 Duty Act program that would ensure the
88 fiscal sustainability of the program and
89 ensure that the benefits are available to those
90 who need and deserve them. Further, VML

1	supports a new, dedicated funding source to	46	
2	pay for LODA benefits, but opposes any	47	
3	funding approach that would rely on or	48	
4	adversely affect existing local revenue	49	
5	sources.	50	
6		51	
7	TELECOMMUNICATIONS, LOCAL	52	
8	GOVERNMENT PRINCIPLES	53	
9	VML sets forth the following principles to	54	
10	guide any federal or state legislative action	55	
11	regarding telecommunications issues.	56	
12		57	
13	1. Public Rights-of-Way. Local rights-	58	
14	of-way are public property. The	59	
15	rights-of-way contain numerous	60	
16	utility and other facilities. Proper	61	
17	management and maintenance of	62	
18	rights-of-way are essential to ensure	63	
19	public safety, to protect the integrity	64	
20	of the property, to guarantee the	65	
21	safety of workers and to maintain the	66	
22	efficiency of local streets, utility	67	
23	systems and transportation facilities	68	
24	and networks. Private use of public	69	
25	rights-of-way significantly increases	70	
26	management and maintenance costs.	71	
27		72	
28	2. Franchise authority. Neither the	73	
29	federal government nor the state	74	
30	should enact any laws to shift the	75	
31	award of franchises to use the public	76	
32	rights of way from the local	77	
33	governing body to any state or	78	
34	federal agency. Individuals and	79	
35	businesses in the community help to	80	
36	buy and maintain rights-of-way	81	
37	through their taxes. Rights-of-way	82	
38	should not be used for private	83	
39	purposes without approval by and	84	
40	compensation to the local	85	
41	government for the right to use the	86	
42	space, and local governments must	87	
43	have authority to control the rights-	88	
44	of-way.	89	
45		90	
		91	
			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 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
			customers of telecommunications
			services through its government

1 offices, education facilities and
2 emergency communications. As
3 valuable customers, local
4 governments should be treated
5 equitably.

- 6
7 7. Private Equipment placed on Public
8 Facilities. Local governments
9 should continue to have the authority
10 to approve the location and fees for
11 any attachment or co-location of
12 communications infrastructure on
13 local government buildings and
14 facilities.

15 **TECHNOLOGY**

16 State law should allow all counties, cities,
17 and towns to make full and appropriate use
18 of modern technology to promote public
19 safety. Local governments should have
20 authority to regulate the use of unmanned
21 aerial vehicles in their jurisdictions insofar as
22 as consistent with FAA regulations.

23 Localities should have maximum flexibility
24 to contract with the private sector to
25 implement all aspects of such technology.

26
27
28 State policy must assist local governments to
29 contact and notify their citizens in the most
30 efficient and cost-effective manners possible
31 given the telecommunications infrastructure
32 in the locality. Ads required by the *Code of*
33 *Virginia* are increasingly more expensive to
34 run in the newspaper and often are only seen
35 by a decreasing number of citizens. The
36 current trend is for local newspapers to
37 reduce the number of times they are
38 published weekly and/or going to an online
39 platform. This has resulted in localities
40 needing to meet certain advertising
41 requirements with only expensive
42 newspapers available for legal notices.

43
44 A locality's internet presence, social media,
45 local cable access channels, local radio and
46 TV provide alternative methods to contact

47 the citizens much more broadly and
48 effectively than newspaper ads in many
49 areas of the Commonwealth. In addition,
50 the cost of contacting the citizens through
51 new technology can be much lower than
52 advertising in the newspaper. The state code
53 should be amended to allow local
54 governments electronic and other alternative
55 means of communicating with their citizens
56 when providing required legal notices.

57
58 In addition, small towns should be allowed
59 to use first class mail instead of newspaper
60 advertising to notify the citizens of
61 government actions such as advertising a
62 budget hearing or advertising a land use
63 hearing to save the citizens money and to
64 communicate more effectively with the
65 citizens.

66
67 Pursuant to the 1996 Telecommunication
68 Act, the cellular phone industry is
69 developing technology to provide for the
70 identification of the origin of cellular
71 emergency calls. Until this technology is
72 implemented and revenue sources have been
73 identified to finance it, the state police
74 should continue to handle the E911 calls
75 they currently handle.

76 **UTILITIES**

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

- 81
82
83 1. Each provider of service must be free
84 to set its rates without interference
85 from other local governments or the
86 state.
87 2. Each local government providing
88 utility services must be able to
89 compete fairly with any other
90 providers without state interference.
91 3. Each local government that provides
92 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 to have the ability to collect monies owed.

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 locality.

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.

The Virginia Electric Utility Restructuring Act of 1999, as amended in 2001, requires that incumbent electric utilities functionally separate their generation facilities from their transmission and distribution facilities prior to implementing retail choice. VML supports functional separation but is opposed in principle to an arrangement whereby a Virginia utility would transfer its generation facilities to an affiliate corporation.

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 enhance its efforts to prevent juvenile crime, minimize violence in the schools, reduce the formation and operation of gangs by providing funding for programs that prepare our youth to be productive, responsible, self-reliant members of society.

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

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

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

WEAPONS IN PUBLIC BUILDINGS

VML supports legislation to allow local governments to restrict the carrying of weapons in any building where a local governing body meets during the meeting, to the same extent weapons are prohibited in public schools.

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

1 caseload increases. These resources are
2 allocated to localities on a discretionary
3 grant basis. Given the statewide character of
4 this program, it is now time to allocate these
5 funds through an equitable formula that
6 recognizes regional costs and benefits of
7 these services.

8

9 **COURT FEES**

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

16

17 **COURT SECURITY**

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

24

25 **INTERNAL AFFAIRS**

26 **INVESTIGATIONS**

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

30

31 **OVERCROWDING/STATE SUPPORT**

32 The state should live up to its commitment
33 to remove state prisoners from local jails.

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

36

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

41

42 Local governments should not be forced to
43 pay for state prisoners. The state

44 reimbursement rate must be restored to an
45 amount that is fair to localities reflecting
46 actual costs.

47

48 **TRAINING ACADEMIES**

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

52

53 **VIOLENCE/TERRORISM**

54 The General Assembly should enable
55 localities to help communities deal with
56 violence and terrorism issues by:

- 57 1. reducing the accessibility of weapons
58 by criminals and persons with mental
59 illness that present a risk of harm to
60 themselves or others,
- 61 2. expanding state and local
62 cooperative efforts in neighborhoods
63 and localities,
- 64 3. promoting additional prevention and
65 intervention programs to deal with
66 youths who may adopt a violent way
67 of life, and
- 68 5. granting localities more flexibility to
69 handle problems of abandoned and
70 blighted structures.

71

72 **NOISE CONTROL**

73 Local government must retain the authority
74 to determine the appropriate measure for
75 establishing unacceptable levels of nuisance
76 noise and to enact local ordinances to
77 address its curtailment.

78

79 **TEXTING AND OTHER CELL PHONE 80 USE WHILE DRIVING**

81 The General Assembly should continue to
82 take steps to prohibit the use of cell phones
83 and other devices for texting, emailing and
84 other activities by a driver while operating a
85 motor vehicle.