

**VML Legislative Committee**  
**Proposed 2023 Legislative Program Items**  
**Approved by the Committee on Sept. 8, 2022**

## **Economic Development**

VML supports local flexibility to promote economic development as our localities come out of this pandemic. A changed business landscape will necessitate a review of revenue sources to localities along with new ideas and actions that will broaden and diversify local revenue streams. Retention of current businesses is vital, and we support continued grant funding for current businesses that are both efficient and effective.

The 2020 General Assembly-approved amendments to Code of Virginia § 2.2-3115 under the Conflict of Interests Act are creating a major deterrent to continued participation by citizen volunteers on local industrial development authorities and economic development authorities. VML supports transparency but also a balance in financial reporting requirements on citizen volunteers to ensure that economic development authorities and industrial development authorities continue to operate with interested and knowledgeable volunteers.

## **Funding of Community Services Boards and Behavioral Health Authorities**

- VML supports sufficient and sustained state funding and technical assistance for community services boards/behavioral health authorities to implement STEP-VA requirements and to support the planning and implementation of Marcus Alert protocols. This funding should not come at the expense of other community-based service initiatives and requirements; nor should the burden of funding these state initiatives be shifted to local governments.
- Federal ARPA funds and robust state revenues offer an opportunity for the state to make new investments in the community and in the state hospitals.
- Investments must go to both build the network of community-based services and to assist state hospitals with their vital mission. This cannot be a zero-sum funding situation where one part of the system benefits at the expense of the other part of the system.

## **Land Use Control**

Localities must maintain control of local land use decisions. Neither the state nor the federal government should usurp or pre-empt a locality's authority to make such decisions, nor should they impose requirements that weaken planning and land use functions. This includes all types of housing to include but not limited to short-term rentals.

VML also supports local government authority to promote affordable and mixed income housing as well as the required infrastructure to facilitate in-fill development,

redevelopment and mixing of uses. Any mandate from the state should include full funding for the locality.

### **Local and Regional Jails**

- VML requests that the Code of Virginia be amended to require that jail per diem rates for all offenders held in a local or regional jail, including those awaiting sentencing or serving sentences in those facilities (tier I) and offenders required under the Code of Virginia to be moved to the Department of Corrections (tier II) be regularly adjusted for inflation in line with the Consumer Price Index so that per diem payments keep pace with actual costs, such as is done with other areas of the budget (e.g., Standards of Quality)
- Local and regional jails should have a choice as to whether it will keep state-responsible inmates (tier II) in their facility after the 60-days from the date of the final sentencing order. Willing facilities may contract with the state to keep such inmates past the 60-day period; those jails unable to keep state-responsible inmates due to space or resource limitations should not be compelled to keep state inmates past the 60-day period.

### **Local Excise Taxes**

VML supports the statewide authority for local governments to establish an excise tax on the sale of vaping products. VML also supports the statewide authority for local governments to establish an excise tax on the sale of cannabis products.

### **Marijuana: Clarification of Local Referendum and State Support**

VML urges the General Assembly to clarify the city and town referendum opt-out process by specifying that:

- Towns may hold concurrent referenda with their counties with the outcome of the town referendum binding within the town, and
- Only in the case of a town not holding a referendum would a county's referendum outcome affect a town's legal sales of recreational marijuana.

VML further requests dedicated and near-term financial state support to assist communities with the upfront, pre-implementation administrative, health, and public safety costs incurred prior to the start of legal sales in localities. This includes training for local law enforcement, and other applicable local government personnel (taxation, code enforcement, zoning, etc.) on the new law and regulations.

VML urges the Cannabis Control Authority to begin its work as soon as possible to fill the regulatory vacuum. This work must include participation by local governments to clarify state and local roles and responsibilities pertaining to marijuana rules and regulations, including but not limited to, establishing enforcement guidance and training standards, guidance for marijuana equivalents, and eliminating ambiguity from local authority. VML supports the equitable implementation of this law.

### **Sovereign Immunity**

Expanding liability and eroding immunities at state levels 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.

### **State Assistance to Local Police Departments (HB 599)**

Almost 70 percent of Virginians live in communities served by police departments. The State created a program of financial assistance to local police departments (HB 599) when it imposed an annexation moratorium on cities more than 30 years ago. It has increasingly de-emphasized this funding obligation as a priority but has never compromised on the annexation moratorium. VML calls for the state to honor its commitment to local governments and public safety by funding the program as stipulated in the Code of Virginia or lift the moratorium on annexation.

### **State-mandated Exemptions to the Local Sales Tax**

The Virginia Department of Taxation estimated that groceries and hygiene products represent approximately 20 percent of the sales tax base in Virginia. VML opposes any state-mandated exemptions to the local option sales tax unless the General Assembly can establish a viable revenue-replacement to local governments.

### **Stormwater Local Assistance Fund**

VML urges the 2023 General Assembly continue to fund the Stormwater Local Assistance Fund (SLAF) at \$50 million. SLAF funding provides grants for localities to make improvements to better manage stormwater-related problems such as run off, erosion, and localized flooding.

### **Support for Public Education**

- VML supports statewide authority for local governments to impose a one percent sales tax to help raise critically-needed funds for school construction and renovation. For those already imposing an approved one percent sales tax for local or regional special funding needs, an additional one percent for school infrastructure funding should be authorized for school construction and renovation purposes.
- While VML supports opportunities for innovation in the Commonwealth's public education system, it opposes efforts by the state to limit local authority over management of local school districts; reduce or divert state funds and resources intended for local public schools to fund charter, college partnership laboratory schools, or other state initiatives; or otherwise proliferate the growth of state government initiatives that adversely affect the needs of existing public school systems.
- VML supports the school construction grant program and believes it should be consistently funded. Until revenue from the Gaming Proceeds Fund is sufficient to

significantly help communities pay for school construction or renovation needs, the state should continue to use general funds to fill in the gap.

### **Swatting\***

VML supports legislation that provides law enforcement an additional tool to combat the act of making a hoax communication to 9-1-1 (or to a private citizen, who then communicates the false information to 9-1-1) regarding an immediate threat to human life with the intent of triggering an immediate and significant law enforcement response, usually involving a SWAT team (thereby known as “swatting”).

*\*Underlined language is new as of 9-9-22 to clarify that communications include more than phone calls.*

### **Taxing, Licensing, and Regulating Internet-Based Business and Services**

State actions to regulate private enterprises employing a business model that emphasizes the use of the internet to either provide retail, facilities, or ride-sharing services must acknowledge local government interests and include local governments in the decision-making.

As general principles, VML believes state and local policies should 1) encourage a level playing field for competing services in the market place; 2) not provide a tax preference or tax policy advantage for one group at the expense of another group in the competitive field; 3) seek to preserve state and local revenue; 4) ensure safety, reliability, and access for consumers, providers, and the public; and 5) protect local government’s ability to regulate businesses whether they are traditional, electronic, internet-based, virtual, or otherwise.

VML also believes that the state should not prohibit the sharing of financial information between the Commonwealth and appropriate local authorities that is normally treated as a part of the public domain. VML further believes that the state should not prohibit a locality from exercising its authority to enter into voluntary collection agreements provided that such agreements include provisions to protect the public’s interest.

### **Transportation Funding**

The General Assembly must make transportation funding whole with a consistent and sufficient revenue source or with state general funds after discarding a dedicated transportation revenue stream as a part of the elimination of the state sales tax on groceries during the 2022 Session. A decent transportation system is fundamental for attracting and retaining businesses, residents, and tourism. If not addressed, this funding loss will have a long-term negative impact on transportation projects statewide. The rise in project costs due to increased inflation will compound this impact.

### **Water Quality Improvement Fund allocation for wastewater projects**

VML supports the allocation of the mandated Water Quality Improvement Fund deposit (approximately \$131.0 million in Fiscal Year 2023) for wastewater infrastructure projects.

Additional investment would help wastewater treatment plants across the Commonwealth meet increasing costs of necessary capital improvements.