

2007 Virginia General Assembly



Fairfax County

Legislative Program

Adopted December 4, 2006



Fairfax County Legislative
Program
2007 Virginia General Assembly
Adopted December 4, 2006



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**FAIRFAX COUNTY LEGISLATIVE PROGRAM
2007 VIRGINIA GENERAL ASSEMBLY**

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**Fairfax County LEGISLATIVE INITIATIVES
2007 Virginia General Assembly**

1. HOUSING -- CONDOMINIUM CONVERSIONS *(carried over in 2006 General Assembly)*

Initiate legislation to allow tenants, of the greater of one unit or up to five percent of the total number of units, to transfer their right to purchase their units to the local housing authority or other qualified non-profit entity during a condominium conversion, as may be determined by the County, with preference to be given to tenants who are elderly or disabled. *(SB 268 was carried over in House General Laws and referred to the Virginia Housing Commission.)*

Under certain conditions, tenants do have the exclusive right to purchase their units during the first 60 days of the 120-day formal notice period. In many cases, tenants are unable to exercise this right to purchase and are displaced. The elderly and disabled may be able to get lease extensions of up to three years, but the rents are not fixed at the prior rate.

Allowing residents to transfer their right to purchase to non-profit entities (including local housing authorities) will help to prevent the loss of affordable housing. The goal of this amendment is to give the FCRHA or qualified nonprofits actively engaged in producing and preserving affordable housing the opportunity to purchase the units with the intent that existing tenants may continue to live in their units. This would allow for a variety of creative responses, including rent-to-own opportunities for existing tenants, long-term rental as affordable, and special assistance for the elderly or those with disabilities.

THE FACTS:

- ❖ As many as 80% are displaced in condo conversions. *(Nat'l Assoc. of Realtors report)*
- ❖ 5,000 Washington area rental homes were converted in 2003; 14,500 were converted in 2004. *(The Washington Post)*
- ❖ Assuming 80% displacement, as many as 11,600 Washington area households could have lost their rental homes in 2004.

2. HOUSING -- INTEREST ON BLIGHT ABATEMENT TAX LIENS *(carried over in 2006 General Assembly)*

Initiate legislation to amend current law to allow the County to collect interest, at the judgment rate, on the costs of blight abatement. *(SB 311 was rolled into SB 692, which was carried over in House Counties, Cities, and Towns.)*

Currently, Virginia Code allows the County to charge the costs of blight abatement to the property owner by collecting these costs through the tax collection provisions. The current process is to bill the property owner for the blight abatement costs; if the owner fails to pay within a sixty to ninety day timeframe from the date the work was completed, a lien is filed in the County land records. The existing law does not allow the County to charge and collect interest on these unpaid liens, essentially making the liens interest-free loans to property owners. The Code should be amended to allow interest to be accrued at the judgment rate in addition to the overall costs of blight abatement.

**Fairfax County LEGISLATIVE INITIATIVES
2007 Virginia General Assembly**

3. HOUSING -- OVERCROWDING *(carried over in 2006 General Assembly)*

Initiate legislation to allow localities to increase the penalty for overcrowding violations of the local zoning ordinance (HB 1438—Sickles) and the building code (HB 1451—Hull); such penalties would be classified as a Class 1 misdemeanor, with the penalty upon conviction of a fine of up to \$2500 and up to one year in jail, with each day being a separate offense. (HB 1438 was carried over in House Counties, Cities and Towns; HB 1451 was carried over in House General Laws and referred to the Housing Commission.)

As housing costs have increased and the stock of affordable housing has declined, some individuals and families have sought to make their housing more affordable by renting a shared home or space. Though many individuals who share space are in compliance with all Health and Zoning Ordinances, there are some residences which are not in compliance, endangering the health and safety of the occupants. Overcrowding, or over-occupancy, in residential dwellings has emerged as a health and safety issue, a code compliance challenge, and a quality of life issue that generates complaints throughout the County.

In terms of the Zoning Ordinance, the occupancy of a dwelling by more than four unrelated individuals, by more than one family plus two boarders, or the establishment of a second dwelling unit, would be considered an overcrowding-related complaint. With regard to the Property Maintenance Code of the Building Code, overcrowding can take the form of an excessive number of people occupying a dwelling based on the floor area of the habitable rooms in a dwelling. This could include rooms used for sleeping purposes that are uninhabitable due to the lack of a safe emergency egress or other violations of the Property Maintenance and/or Building Code.

4. HUMAN RIGHTS -- SEXUAL ORIENTATION

Initiate/support legislation to permit the County, as an urban county executive form of government, to prohibit discrimination in the areas of housing, real estate transactions, employment, public accommodations, credit, and education on the basis of sexual orientation. Fairfax County has already taken actions pursuant to existing State enabling legislation in the preceding areas on the basis of race, color, religion, sex, pregnancy, child birth, and disability. (Updates and reaffirms previous initiative).

Presently, the Fairfax County Human Rights Ordinance does not prohibit discrimination against persons on the basis of sexual orientation. The Human Rights Commission in 2000 studied the need to add sexual orientation protections and issued a report to the Board of Supervisors documenting the need for the added protection and recommending that the Ordinance be amended to include sexual orientation as a protected class. Legislation has been killed in committee since 2001: SB 1147 (2001), HB 750 (2002), HB 880 (2004), and HB 2116 (2005) were all passed by indefinitely. HB 1373 was left in committee in 2006.

**Fairfax County LEGISLATIVE INITIATIVES
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5. PROCUREMENT – ENVIRONMENTALLY PREFERABLE PRODUCTS

Initiate legislation to amend the Virginia Public Procurement Act to encourage the purchase of environmentally preferable products by providing a preference for such products similar to that preference now granted for recycled products.

Environmentally preferable products protect natural resources and have a reduced effect on human health and the environment when compared with competing products. Such products minimize waste, and conserve energy, raw materials, and water. Additionally, these products preserve landfill space. This proposal is consistent with efforts by the Board to improve recycling and other environmental efforts by County agencies.

6. PROCUREMENT – LIVING WAGE

Initiate legislation which would provide authority to permit the County to require County contractors to provide a living wage to employees.

Despite its robust economy and low overall poverty rate, Fairfax County has more people living below the federal poverty line than the total populations of all but 34 of the 135 cities and counties in Virginia. In 2004, 4.4 percent of Fairfax County's population—approximately 44,981 persons--lived below the federal poverty line. Nearly nine percent of Fairfax County households have incomes under \$25,000 per year.

The high cost of living in Northern Virginia makes it particularly difficult for low-income workers to meet their basic needs. Average rent increased 36 percent from 1998 to 2004, forcing over 44 percent of renters in the County to spend more than one-third of their incomes on housing. Housing consumes half of family income for 18,000 households in the County. Making ends meet can be especially challenging for single-parent families, which represent one out of every five households with children in the County, as child care costs in the region average \$12,000 per year.

While the cost of living, particularly in the housing market, has risen substantially in the last several years, the federally-mandated minimum wage--\$5.15 per hour--has remained stagnant since 1997. A single Virginia worker earning the federal minimum wage makes only \$9,893 annually, effectively at the federal poverty level of \$9,800 per year. After deductions for Social Security and Medicare, such a worker would earn only \$824 a month in an area where the median monthly rent for a one-bedroom unit was \$1,046 in 2005.

Localities have an interest in ensuring that workers' wages enable them to support themselves. Workers whose earnings are inadequate to provide for basic self-sufficiency--food, shelter, transportation, medical care, and other essentials--may be forced to rely on public assistance, including federal, state, and local programs, to meet some of these critical needs. Paying workers a wage which moves them closer to self-sufficiency would preserve some of the recent state and local investments in helping families transition from welfare programs to long-term economic stability.

In addition to lessening the demand for taxpayer-funded public assistance programs, a living wage for workers providing services to the County may also benefit the County by improving the quality of services provided under County contracts. Anecdotal evidence suggests that workers receiving an adequate wage perform better on the job: their morale is better, employee turnover is lowered, and absenteeism is reduced, thus enabling the County to receive better quality services.

**Fairfax County LEGISLATIVE INITIATIVES
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7. PUBLIC SAFETY -- POSSESSION OF WEAPONS ON POLICE PROPERTY

Initiate legislation to amend Virginia Code §18.2-283.1 prohibiting individuals from carrying weapons on the premises of any law enforcement facility unless otherwise permitted by law.

Section 18.2-283.1 prohibits any individual from carrying a weapon (as defined under §18.2-308) into a courthouse in the Commonwealth unless otherwise permitted, i.e., police officers, sheriffs, game wardens.

However, §18.2-283.1 does not address instances in which an individual elects to carry a weapon into a law enforcement facility. There is no provision that prohibits the open carriage of a weapon inside areas of a law enforcement facility where there may be suspects in custody, forensic evidence being processed, or areas containing a cache of weapons.

The nature of the profession requires that law enforcement officers routinely come into contact with dangerous individuals who may present a significant threat to public safety. Such individuals may harbor hostility towards an individual officer or towards the police as symbols of authority. The inability to restrict the possession of weapons within law enforcement facilities presents a considerable risk to both law enforcement officers and the law-abiding citizens of the Commonwealth that frequent these facilities.

There have been several instances in which armed assailants have assaulted law enforcement facilities with the sole intent of killing the sworn and civilian staff working within. In addition, law enforcement facilities are now clearly defined as critical infrastructure due to the ever-increasing threat to national security on both the domestic and international level.

**Fairfax County LEGISLATIVE INITIATIVES
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8. PUBLIC SAFETY -- TEEN DRIVING

Initiate legislation to amend current laws for violations of curfew and limits on underage passengers for drivers under the age of 18 by changing such secondary offenses to primary offenses. Secondary offenses now require observation of a primary offense for a law enforcement officer to initiate enforcement action. (During the 2006 General Assembly session, legislation (SB 533) was introduced to make curfew and passenger limitations infractions primary offenses, but this bill failed to pass.)

Also initiate legislation to create a new requirement to ban use of wireless communication devices while operating a motor vehicle by drivers under the age of 18. (During the 2006 General Assembly session, legislation was introduced that tried to do this and failed -- HB1494, SB137 and SB533.)

Support efforts to review and improve the effectiveness of driver education, including efforts to better involve parents in the licensing process and educate parents on Virginia's teen driving laws. (It is anticipated that legislation on this subject will be introduced at the 2007 General Assembly)

Motor vehicle crashes are the leading cause of death among 10 to 15 year olds nationwide. Last year 61 people lost their lives on County roads, and the number of those victims who were 21 years or younger was an astonishing 10 fatalities, or 16.67 percent.

Current Virginia law requires that a holder of a provisional driver's license under the age of 18 not operate a motor vehicle between midnight and four a.m., with certain exceptions. Another section limits a driver younger than 18 as to the number of passengers younger than 18 to be driven. These behaviors are sufficiently dangerous that violations of these sections should be primary offenses; according to the National Highway Traffic Safety Administration (NHTSA), the nighttime fatal crash rate for 16 year olds per mile driven is twice as high as during the day, while 59 percent of passenger deaths in 2003 occurred in crashes with a teen driver.

Additionally, the use of a cellular phone while operating a motor vehicle not only causes a physical distraction and diminishes physical capabilities, but also creates a cognitive distraction, reducing reaction time for drivers. The Virginia Department of Motor Vehicles cites distraction as a leading cause of crashes involving teen drivers, as inexperienced young drivers just learning how to operate a motor vehicle need to remain focused on the road. Prohibiting cell phone use for drivers under the age of 18 would remove a significant distraction for this group of drivers.

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9. PUBLIC WORKS – ESCROW FUNDS

Initiate legislation enabling the County to use escrow funds intended for a particular improvement for another project.

Pursuant to the County's standard Future Construction Agreement, when seeking County approval of development plans, sometimes a developer posts cash or a letter of credit to construct a particular public improvement, such as a trail or sidewalk segment, that for various reasons is not to be constructed simultaneously with the rest of the project. The County holds the money in escrow until the improvement is made. Once the project is completed, the County disburses the escrow funds to the person, company, or public entity that completed the work or is otherwise entitled to the funds based on the language of the agreement.

Under the proposal, the Virginia Code would be amended to provide that, unless prohibited by a term or condition of the construction agreement, the County could use such escrow funds for another public improvement or feature on the same project or within the locality in the vicinity of the project.

10. ZONING -- REQUIRED DISCLOSURE OF CERTAIN ZONING ORDINANCE VIOLATIONS

Initiate legislation to amend the Virginia Residential Property Disclosure Act, which requires the disclosure of certain pending building code enforcement actions in real estate transactions, to include a similar requirement to disclose pending enforcement actions of zoning ordinance violations.

The Virginia Residential Property Disclosure Act was amended during the 2006 General Assembly Session to require the owner of residential real property to furnish a notice to a purchaser representing that there are no pending enforcement actions under the Uniform Statewide Building Code, of which the owner has been notified in writing by the locality, that affect the safe, decent, and sanitary living conditions of the property. This notice must be contained in the disclosure and disclaimer forms, whether the owner is selling the property "as is" or pursuant to a residential property disclosure statement. The Act applies to the sale or transfer of four or fewer residential units. This proposal would add a similar disclosure requirement of pending enforcement actions of any zoning ordinance violation for those properties that fall under the Act, where the owner has been notified in writing by the locality.

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**Northern Virginia REGIONAL LEGISLATIVE POSITIONS
2007 Virginia General Assembly**

CONSUMER PROTECTION

1. **Electric Restructuring** -- Support a review to consider amending the legislation on electric utility restructuring (deregulation) to allow for continued state regulatory oversight by the State Corporation Commission (SCC) over electricity rates. Since the Virginia Electric Utility Restructuring Act was enacted into law in 1999, competition for electric service in Virginia has failed to materialize. Consumer prices have remained low as a result of caps that have ensured rates are unaffected by market forces. However, these rate caps are due to expire December 31, 2010, and after that time, electric utility rates will be set by market rates. It is feared that Virginia consumers will face substantial rate hikes when capped rates are replaced by market rates in a non-competitive environment, as has happened in neighboring states like Maryland and Delaware, which have experienced rate increases ranging from 59% to over 100%.

The SCC recently sent a letter to the Governor and General Assembly warning of the potential impacts when the rate caps are lifted; a study of this issue by the Commission on Electric Utility Restructuring is currently underway. In its 2006 annual report, the SCC questions, "...the ability of retail electric competition to provide Virginians with lower prices for electric service than would have prevailed under traditional regulation of the industry." As rate increases in regulated states have remained much more moderate, the ongoing study should carefully examine all relevant issues, including consideration of the merits of moving to a more regulated system.

FUNDING

2. **BRAC** -- Support the inclusion of sufficient funds in the 2006-2008 biennium budget amendments to ensure significant fiscal resources to address the enormous planning and transportation issues raised by the relocation of an estimated 22,000 defense workers to Fort Belvoir and 3,000 defense workers to USMC Quantico, resulting from the Base Realignment and Closure Commission (BRAC) recommendations signed by the President in September 2005. Assistance for recovery from the considerable economic impacts of the BRAC process is needed. Additionally, for Fairfax County, ensure sufficient funding for the transportation improvements required to implement this federal plan, and appropriate consultation between the Army and Department of Defense and local governments on planning and land use decisions are critical priorities. (*Reaffirms previous Board position*).
3. **Child Day Care Subsidies for Low-Income Working Families** -- Initiate state legislative or budget action to provide General Funds for child care services for low-income working families. Though federal and state funding provides time-limited child care assistance for families at the lowest end of the poverty scale through TANF/VIEW, additional General Funds are needed statewide to defray the cost of child care for economically disadvantaged families not participating in TANF/VIEW, known as "Fee System Child Care." The need is great, as evidenced by a growing, documented statewide waiting list of more than 14,000 children in 73 jurisdictions, and includes families who are working to remain independent of welfare programs, as well as those who are no longer eligible for TANF/VIEW. Without child care subsidies, low-income working parents striving for self-sufficiency may be forced to leave work and seek TANF/VIEW assistance as their only method of ensuring safe, reliable child care for their children, creating a disincentive for those who want to work and become economically stable. Child care assistance is essential to continued economic growth and low unemployment, and preserves state and local investments in Welfare to Work programs, providing an excellent opportunity for a true partnership between the state and localities. Providing critically needed subsidized child care for low-income working families is an ongoing issue which will require a

**Northern Virginia REGIONAL LEGISLATIVE POSITIONS
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long-term funding commitment.

Additionally, support November 2006 executive action, which remedied the current shortfall for FY 2007. This shortfall resulted from General Assembly rejection of executive amendments to the 2006-08 biennium budget meant to mitigate the state's substantial reduction of federal pass-through funding in FY 2007, which resulted from changes to federal TANF requirements. This funding was available to Fairfax County and several other jurisdictions, including Alexandria, Newport News and Virginia Beach, and Albemarle and Arlington Counties. The loss of this funding (\$13 million for Fairfax County in FY 2007), which was matched by localities (\$15.1 million in Fairfax County in FY 2006), put many County low-income working families at risk of losing subsidized child care, and has resulted in an ever-growing County waiting list (over 3,100 children). Recent gubernatorial action will provide \$3.38 million in FY 2007 to Fairfax County, and matched by local funding, will help moderate this dramatic loss in the short term and prevent the removal of children from subsidized child care. This has been designated by the Board as one of its two human services priorities.

Note: Position is more fully explained in the issue paper "Critical Needs in Human Services, which is an addendum to this Program.

- 4. Compensation For State Court Employees --** Support additional State funding to provide higher levels of compensation for magistrates, district court employees, probation officers/staff, and public defenders/staff. Low State compensation and the resultant high personnel turnover for these State positions jeopardize the consistent provision of vital criminal justice and court-related services, particularly in highly competitive regions such as Northern Virginia. Localities should not have to supplement the funding of State positions in order to ensure the adequate provision of State services and protections to the citizens of the Commonwealth. Fairfax County will initiate a budget amendment to ensure increased funding for magistrates. *(Reaffirms previous Board position).*

- 5. Medicaid Waivers- MR and DD --** Support an amendment to the 2006-2008 biennium budget to fund additional Medicaid Mental Retardation (MR) and Developmental Disabilities (DD) Home and Community Based Waiver slots; and to increase statewide payment rates to providers for MR services by 14% overall, along with a Northern Virginia rate differential of 18%. Though progress was made in the 2006 General Assembly, waiting lists continue to grow each day. To address this pressing need, additional waiver slots should be developed and funded, and the rate methodology must be revised to include a Northern Virginia rate differential, supplementing an adequate statewide base reimbursement for providers. These actions will serve both to activate new slots as well as to continue services for current waiver recipients by enhancing community-based service development. This has been designated by the Board as one of its two human services priorities.

Note: Position is more fully explained in the issue paper "Critical Needs in Human Services, which is an addendum to this Program.

- 6. Water Quality Improvement Fund --** Support increased funding for the Water Quality Improvement Fund (WQIF) with consideration of a dedicated source of revenue. The Water Quality Improvement Fund makes matching grants to finance water quality improvements including restoration of the Chesapeake Bay and its tributaries. Though the 2006-2008 biennium budget provided \$100 million per year for WQIF; this funding must be maintained, as an estimated \$2.3 billion is needed through 2025. However, the dedication of revenue for the WQIF should not be accomplished through imposition of a state fee or tax on local government services such as water, sewer, or solid waste. *(Updates and reaffirms previous position.)*

**Northern Virginia REGIONAL LEGISLATIVE POSITIONS
2007 Virginia General Assembly**

GOVERNANCE

7. **Immigration** -- Support stricter federal action to improve the enforcement of federal immigration laws and policies by federal agencies. The Board opposes new federal or state action that would compromise its ability to deliver local government programs and services that benefit or protect the public health, welfare and safety of the community as a whole. The Board further opposes state or federal legislation mandating that local governments enforce federal immigration laws, especially in the area of law enforcement. *(Reaffirms previous Board position).*

PUBLIC SAFETY

8. **Human Trafficking** -- Support funding and legislative efforts to curb human trafficking, provided such measures either enhance penalties for trafficking offenses or do not lessen those penalties imposed under current law for offenses under which trafficking violations now may be prosecuted (for example, the statutes governing abduction and extortion). Human trafficking is both an international issue and a domestic one, encompassing forced agricultural and domestic servitude as well as sexual exploitation. The federal Trafficking Victims Protection Act (TVPA), passed in 2000 and reauthorized most recently in 2005, created trafficking as a federal crime and imposed federal responsibilities for the prosecution of traffickers and the protection of victims. State efforts should include funding for enforcing state laws and judicial training on recognizing trafficking cases and funding for victim services, as well as enhanced penalties for trafficking offenses.
9. **Pedestrian Safety** -- Support legislation that would require motorists to stop for pedestrians in marked crosswalks at unsignalized intersections on roads where the speed is 35 mph or less. Recent events throughout the region have highlighted a growing concern for the safety of pedestrians attempting to cross streets. Many Northern Virginia jurisdictions are exploring a variety of means to effectively provide for pedestrian safety while avoiding both the potential for serious vehicular accidents and the potential for creating a false sense of security for the pedestrians. *(Reaffirms previous position.)*
10. **Photo Red Light** -- Initiate legislation that would reinstate photo red authority for jurisdictions that previously had this authority. The authority granted to a limited number of jurisdictions in the mid-1990s for such programs expired on July 1, 2005. Jurisdictions that implemented photo red programs saw significant reductions in the number of vehicles running red lights at intersections where a photo red camera was installed. In addition, surveys conducted before and after the implementation of these programs show strong public support for them. In December 2004, the Virginia Transportation Research Council released a review of the six photo red programs in Virginia, concluded that the programs are technically and operationally feasible, and recommended their continuation. *(Reaffirms previous position.)*

**Northern Virginia REGIONAL LEGISLATIVE POSITIONS
2007 Virginia General Assembly**

TRANSPORTATION

11. Funding -- Support additional state transportation funding for highway, transit, bicycle and pedestrian improvements. (*Updates and reaffirms previous position.*) Specifically, the Board, along with other Northern Virginia jurisdictions, asks the General Assembly to:

- Significantly increase transportation funding for all modes from a stable, reliable, and permanent source(s).
- Meet the Commonwealth's statutory 95 percent share of transit operating and capital costs (net of fares and federal assistance). This would require approximately \$200 million annually in new funds for the limited transit projects and eligible operating costs included in CTB's six-year program.
- Approve a dedicated funding source for the Washington Metropolitan Area Transit Authority.

12. Secondary Road Program -- Fairfax County opposes any legislative or regulatory moratorium on the transfer of newly constructed secondary roads to VDOT for the purposes of ongoing maintenance. In addition, Fairfax County opposes any legislation that would require the transfer of secondary road construction and maintenance responsibilities to counties.

During the 2006 General Assembly special session on transportation, legislation was introduced to prohibit VDOT from accepting any new secondary roads into the state system for maintenance. The legislation is the result of a perception that a major reason VDOT's maintenance costs are increasing is that a significant number of new secondary streets are being added to the state system each year. While new subdivision streets are being added to the state system, this is primarily because counties do not have the authority to deny applications for subdivision plats or building permit approval based on inadequate transportation or deny acceptance of streets that meet VDOT standards. While there is a need to better coordinate transportation and land use decisions, a moratorium on acceptance of secondary streets is not the answer. It would amount to an unfunded mandate on local governments.

In addition, members of the General Assembly and the administration have suggested that "devolving" responsibility for the entire secondary road system to counties would help address the coordination issues between transportation and land use. This approach is also flawed, because the main reason the state took over the secondary road system in the 1930s was to ensure that they were adequately maintained to a uniform standard. Prior to the state take over, the secondary system was not uniformly maintained and the condition of the roadway network was raising concerns about the ability to conduct commerce. Based on the current transportation funding shortfalls, it is unlikely that the state would provide adequate funding to counties to maintain their secondary systems. The counties would be required to supplement the state funds with their own general funds, primarily generated by property taxes. This approach would also be an unfunded mandate on local governments.

***JOINT POSITIONS
FAIRFAX COUNTY BOARD OF
SUPERVISORS AND
SCHOOL BOARD***

Education Funding

Fairfax County Board of Supervisors and School Board
JOINT LEGISLATIVE POSITIONS
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EDUCATION FUNDING *(Updates and reaffirms previous position.)*

1. The Boards support continued General Assembly attention to State funding of public education through the Standards of Quality (SOQ) and other programs.

Critical gaps still remain between SOQ funding and the actual costs of services as borne by localities. The Boards support full funding for the biennial rebenchmark which updates the SOQ funding formulas to reflect increases in fuel and health care costs, teacher salaries, etc. The Boards oppose changes in the rebenchmarking process which further erode the connection between State funding and local costs (such as the “soft cap” on inflation in the 2006-08 budget). Similar concern extends to the budget study of rebenchmarking cost trends and drivers to “identify options for efficiencies and cost savings.” Any such study must be balanced with a consideration of how state mandates, and the state’s obligation to fund those mandates, affect local budgets.

2. The Boards support enhanced revenue capacity for localities to address pressing public education capital costs and other local needs.

The Boards continue to support completing the equalization of taxing authority, making county taxing authority comparable to existing city authority. Despite recent changes, counties are still overly reliant on local property tax revenues. The Boards support actions by policy-makers that produce extra funds or funding opportunities for localities. The Boards oppose any state-mandated restrictions on local property taxes, curtailment of local government authority to raise revenue, or expanded dependency of localities on revenue-sharing mechanisms controlled by the State.

3. The Boards support flexibility and additional resources to carry out the federal mandates under the No Child Left Behind Act (NCLB) and the Individuals with Disabilities Education Improvement Act (IDEA 2004).

The Boards urge the federal government to grant flexibility over NCLB implementation to states such as Virginia, with a demonstrated record in the use of state accountability systems for improving student achievement. The federal government should live up to its commitment to provide adequate resources for NCLB implementation, as well as for the Individuals with Disabilities Education Improvement Act for special education students, to ensure that the financial burden of these mandates does not continue to fall to local governments.

4. The Boards support state and federal funding for after school programs as well as programs addressing at-risk youth and gang prevention.

The Boards support evidence-based prevention and intervention that engages and educates parents as well as youth to better address adolescent substance abuse, behavioral issues, and criminal gang involvement. The Boards support increased appropriations for the federal Safe and Drug Free Schools and Communities Program and the 21st Century Community Learning Centers Program. The latter program provides students with academic enrichment opportunities, community service opportunities, music, art, and sports in a safe environment when school is not in session. The Boards support continued cooperation between levels of government and across jurisdictions addressing problems related to gang activity in the region.

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**Fairfax County LEGISLATIVE POSITIONS
2007 Virginia General Assembly**

ENVIRONMENT

1. **Tree Preservation** -- Support legislation to allow certain jurisdictions to require the preservation of trees on wooded development sites to meet tree canopy requirements in proportion to the amount of predevelopment canopy. The legislation should: 1) apply to EPA air-quality non-attainment areas; 2) provide a specific exception for agricultural and silvicultural interests based on lot size; 3) ensure no loss of building lots otherwise approvable; 4) provide linkage to cluster subdivision provisions, and 5) include grandfather provisions to preserve existing ordinances. *(Updates and reaffirms previous position.)*

2. **Land Conservation** -- Support the preservation of open space to meet the goals of the Chesapeake Bay 2000 Agreement under which signatories pledged the protection of 20% of the watershed by 2010. To meet this goal, Virginia needs to preserve an additional 358,000 acres in the Bay Watershed, or an average of 72,000 acres per year instead of the current 54,000/year, through a significant investment in incentives for the voluntary donations of conservation easements and the purchase of development rights. This position is in line with the Governor's goal for preservation of 400,000 acres statewide during his administration. *(Updates and reaffirms previous position.)*

3. **Labeling of Fertilizer** -- Support legislation requiring labeling of specialty fertilizer with directions for proper use and precautionary statements to educate users. Such labels should note that excessive application of fertilizer could harm local water quality, as well as the health of major waterways and the Chesapeake Bay. The labels should also suggest recommended application rates (in units of weight or volume per unit of coverage) and recommended timing for application.

FUNDING

4. **Library Formula Cap** -- Support legislation to permanently remove the statutory population "cap" from the State's library funding formula. The current formula for distributing state funds to public libraries caps per resident funding for library systems serving more than 600,000 residents; only Fairfax County's public libraries are affected by this cap, resulting in a projected annual underfunding of \$90,000 and requiring a budgetary fix in each biennium budget. *(Reaffirms previous Board position).*

HEALTH

5. **Tax Deduction for Organ Donor Expenses** -- Support legislation providing a tax deduction to organ transplant donors in the lesser amount of \$5,000 or the amount actually paid in the taxable year for medical expenses that are not covered by insurance and that are directly related to the transplant operation.

Fairfax County LEGISLATIVE POSITIONS
2007 Virginia General Assembly

GOVERNANCE

6. **Release of Data on Minors Through Freedom of Information Act Requests** -- Support legislation to amend the Virginia Freedom of Information Act (VFOIA) to allow the County's Park Authority to mirror the current Parks and Recreation statutory exception for restricting release of personal data on minors.
7. **Revenue Capacity and Core Local Needs** -- (*Revises and updates previous position to incorporate VACo principles.*) Despite significant state revenue changes enacted in recent years, the local tax structure remains unchanged, is becoming antiquated, and lacks the diversification necessary to fund ever-growing local core services/needs. Fairfax County, along with member jurisdictions of VACo, remains willing and able to assist the state government in addressing compelling issues facing the Commonwealth. The County asks for collaborative solutions that recognize the unique strengths of each level of government. Actions are needed to:
- **Support funding of state and local shared responsibilities.** It is essential that the state live up to its educational responsibilities by increasing funding for school construction, technology and federal/state accountability programs, without neglecting other shared responsibilities such as Chesapeake Bay clean-up, local law enforcement (HB 599 program), jail operations and human services needs.
 - **Support diversification of local revenue base.** Though progress has been made, additional available local revenue options should be considered including: granting counties equal taxing authority with cities and towns without mandating dedication of those revenues; reducing dependency on property taxes by broadening the revenue base; updating taxes to reflect changes in the economy or in technology; and returning a portion of State individual income tax for unrestricted local use.
 - **Preserve existing local authority.** Fairfax County opposes efforts to: cap the local real estate tax rate, which would further erode the local tax structure's flexibility and capacity and jeopardize a locality's bond rating; decrease local revenues or revenue opportunities; add state taxes/surcharges on locally-provided services for State responsibilities; or expand the dependency of localities on revenue-sharing mechanisms controlled by the state. Encroachment upon local authority skews local accountability and hampers efforts to provide for constituent needs in the most cost effective and efficient manner. Currently, almost 90% of Fairfax County revenues are capped, limited, or controlled by the state, preventing localities from structuring the local tax base to reflect the local economy or the needs of their residents.
 - **Fully fund the costs of mandates placed on local governments.** A true partnership between State and local governments requires a fair and adequate sharing of State revenues. The State has an obligation to fully fund the costs of mandates placed on local governments, particularly when the State requires that local governments provide services in a prescriptive manner with little flexibility.

**Fairfax County LEGISLATIVE POSITIONS
2007 Virginia General Assembly**

GOVERNANCE (continued)

8. **Telecommunications** -- (*Reaffirms previous positions.*) Fairfax County also supports the following related telecommunications positions:
- **Oppose efforts to inhibit local authority in land use decisions.** Fairfax County opposes the preemption or circumvention of local governments' historical control over land use decisions, including any attempt to eliminate local governments' rights to charge, on a non-discriminatory basis, fair and reasonable compensation for use of public property.
 - **Oppose reduction or diminution of well-established local government authorities.** It is essential that local governments retain the authority to: address consumer needs; regulate consumer services; and negotiate and enforce cable franchises that include provisions such as redlining prohibitions, franchise fees, public, educational, and governmental channels and financial support, customer service provisions, and technical and construction standards.
 - **Restrict the Virginia Department of Transportation's (VDOT's) ability to act unilaterally in creating/altering telecommunications facilities.** Prior approval of the affected locality's land-use and/or zoning authority should be required before VDOT allows the construction of commercial mobile and land-based telecommunications facilities (e.g., monopolies, towers, and related structures).
 - **Preserve local control over road and property management.** Fairfax County opposes any reduction, preemption, or circumvention of VDOT or the County's authority to manage and oversee highway rights-of-way or the County's authority to manage its property.
9. **Time Limits for Completion of Residential Construction Projects** – Support legislation to allow localities to adopt an ordinance establishing reasonable time limits for completion of residential construction projects to be enforced by the local building official. Under the current Building Code, the building official can invalidate a building permit if a project is abandoned for six months. However, in some cases just enough work is done to demonstrate the project has not been abandoned while in fact virtually no progress is made. As a result, some projects remain incomplete for years and can cause problems for neighbors. Setting time limits that take into account factors that can affect completion timeframes, such as project size, site conditions, and weather conditions, would incorporate necessary flexibility and address the problem.

**Fairfax County LEGISLATIVE POSITIONS
2007 Virginia General Assembly**

LAND USE

10. ***Adequate Public Facilities Ordinance*** -- Support legislation to give localities authority to adopt an adequate public facilities ordinance. The legislation should: 1) permit localities to adopt provisions in their subdivision ordinances for deferring the approval of subdivision plats or site plans when it is determined that existing schools, roads, public safety, sewer or water facilities are inadequate to support the proposed development; 2) provide that an expressed purpose of zoning ordinances is to protect against an undue rate of development in relation to existing or available public facilities; and 3) not require localities to construct the necessary infrastructure within a timeframe established by the General Assembly. (*Updates and reaffirms previous position.*)
11. ***Inflation Adjustment Factor for Cash Proffers*** -- Support legislation amending Virginia Code §15.2-2303.3 to add the Construction Cost Index (CCI) published by the Engineering News Record to the standardized indices that may be utilized to determine inflationary adjustments to cash proffers. Because the CCI captures broad inflationary trends for labor and material costs, it is a more appropriate tool to determine inflation related to the construction of transportation projects than the Consumer Price Index and the Marshall and Swift Building Cost Index, the two currently acceptable indices.

PROCUREMENT

12. ***Procurement of Non-Professional Services Including Component of Professional Services***
Support legislation to allow public bodies to use the non-professional service procurement method when both non-professional and professional services are required, if the cost of professional services to be procured is less than 45% of the total contract value.

PUBLIC SAFETY

13. ***Seat Belts*** -- Support legislation to change the current seat belt infraction from a secondary offense to a primary offense for those at least sixteen years of age. Virginia could receive additional grant funding under the Transportation Equity Act by enacting a primary seat belt law and increasing seat belt use. (*Reaffirms previous position.*)

TAXATION

14. ***Communications Tax*** -- (*Revises previous position.*) Support remediation or legislative action, if necessary, to protect the short- and long-term financial interests of local governments upon implementation of the new telecommunications tax law, which repeals many local taxes and replaces them with a statewide communications tax, effective January 1, 2007. The new tax must capture all intended forms of communication; local governments must be guaranteed, on a locality-by-locality basis, tax revenues equivalent to their FY 2006 percentage share of total statewide telecommunication tax revenues; and the amount of new tax generated for each locality must be equivalent to such telecommunication tax revenue received in FY 2006. Fairfax County's FY 2006 revenue from communications taxes totaled \$85.5 million. Last, changes in market area, customers served, and new technologies must be examined as provided in the law, to ensure a modern communications tax system for localities which reflects and reacts to an ever-changing landscape.