

# ***FAIRFAX COUNTY LEGISLATIVE PROGRAM***

## ***2009 VIRGINIA GENERAL ASSEMBLY***



*Adopted December 8, 2008*

**Fairfax County Legislative  
Program  
2009 Virginia General Assembly  
Adopted December 8, 2008**

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**COUNTY INITIATIVES**

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**1. GOVERNANCE -- LOCAL FINES FOR SEAT BELT VIOLATIONS**

***Initiate legislation to allow the County to keep the money from fines for seat belt violations.***

Current law provides for a \$25 civil penalty for not using a seat belt in certain circumstances, but generally does not permit local governments to recover fines from enforcing that seat belt law. This is a departure from the normal practice established by Virginia Code §46.2-1308, which permits localities to keep fines from violations of local ordinances that are based on state motor vehicle laws.

More specifically, Virginia Code §46.2-1094 generally provides that persons in the front seat of a motor vehicle shall wear an appropriate seat belt. However, with one exception for the City of Lynchburg, which was enacted in 1993, all the fines from violations of this state law have to be paid into the state treasury and credited to the state Literary Fund. Virginia Code §46.2-1094 should be amended to permit all local governments to adopt ordinances for this seat belt offense and to recover fines from violations of such ordinances.

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**2. HOUSING -- CERTAIN VACANT PROPERTIES IN FORECLOSURE**

***Initiate legislation to allow the County to require lenders of residential properties in the County where the mortgages are in default and that have been vacant for three months or more to so notify the County and to designate a local point of contact for the property. The County would be allowed to charge a records maintenance fee for each such property.***

The recent downturn in the national real estate markets has led to an increase in foreclosures in the County. Many properties in foreclosure are left vacant for extended periods of time, creating both a public safety concern and a quality of life issue for neighborhoods, since vacant properties can become magnets for vandalism and other crimes. Poorly maintained properties can discourage potential buyers of neighboring properties, thus further harming neighborhoods.

Requiring lenders, including mortgage companies, to notify the County when properties are in default and have been vacant for three months and to designate a point of contact for the property would mitigate these problems in two ways. First, requiring notification to the County of vacant properties would assist County law enforcement and public safety staff in targeting patrols and other safety efforts. Secondly, requiring that mortgage companies designate a local representative as a point of contact would allow County staff to relay complaints and concerns about property maintenance and security directly to that representative, thus allowing the problem to be remedied expeditiously. Without such notification and identification of a point of contact, County staff must spend substantial amounts of time identifying the current lender and then attempting to locate a responsible party.

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**3. 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; HB 2598 was tabled in committee in 2007; and HB 675 was left in committee in 2008.

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**4. PUBLIC SAFETY -- DANGEROUS WEAPONS IN PUBLIC FACILITIES**

***Initiate/support legislation to allow the County to adopt an ordinance prohibiting the possession of dangerous weapons in or on any facility or property owned or leased by the County, with certain exceptions, including any person who has been issued a permit to carry a concealed handgun. Violation of such an ordinance would be punishable as a misdemeanor. It is particularly important that the County have such authority for any facility or property owned or leased by the County serving large populations of youth under the age of 18. Current law permits private property owners to decide whether or not to permit dangerous weapons on their property. (Updates and reaffirms previous position. This is also a regional position.)***

***Oppose any state or federal legislation that would make the illegal trafficking of weapons easier. (Updates and reaffirms previous regional position.)***

Va. Code §15.2-915 generally prohibits localities from regulating the possession or carrying of firearms, and the Fairfax County Circuit Court has ruled that this statute does not permit Fairfax County to prohibit persons from bringing firearms into buildings that are owned or used by the County government. However, private property owners in Virginia generally are able to decide whether or not to permit dangerous weapons on their own property; private property owners can even prohibit the carrying of a concealed handgun even when the individual has a concealed handgun permit. Virginia law also prohibits firearms and other dangerous weapons in several areas. For example, it generally is illegal to carry a firearm into a place of worship (Va. Code §18.2-283), into a courthouse (Va. Code §18.2-283.1), or onto the property of a public or private school (Va. Code §18.2-308.1).

The General Assembly should enact enabling legislation that would permit Fairfax County and other localities to adopt a similar prohibition on administrative offices, board meeting rooms, mental health facilities, police stations, tax offices, recreation areas (including teen centers and community centers), welfare facilities and other properties. Such enabling legislation should provide exceptions for firearms carried by any law enforcement officer or game warden, any special police officer, any magistrate or judge, and any person who has been issued a permit to carry a concealed handgun pursuant to Va. Code §18.2-308(D).



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**5. PUBLIC SAFETY -- TEEN DRIVING**

***Initiate legislation to make the ban on use of wireless communication devices while operating a motor vehicle by drivers under the age of 18 a primary offense. (Updates and reaffirms previous position.)***

Motor vehicle crashes are the leading cause of death among 10 to 15 year olds nationwide. In 2007, 52 people lost their lives on Fairfax County roads, and the number of those victims under 21 years of age was an astonishing 11 fatalities, or 21 percent.

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. In 2007, the General Assembly passed SB 1039, which prohibits the use of wireless telecommunication devices by holders of provisional driver's licenses, except in an emergency or when the vehicle is parked. However, a violation of this law is currently a secondary offense, not a primary offense.

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**FUNDING**

1. **BRAC** -- Most Northern Virginia localities are being significantly impacted by the 2005 recommendations of the Base Realignment and Closure Commission (BRAC) with many Department of Defense (DOD) agencies and commands being moved into or out of facilities in the area. As a result, some local governments face significant shortfalls in the capacity of current infrastructure (especially transportation) to support the additional military and civilian jobs, while other local governments expect to lose jobs and tenants in leased space.

Northern Virginia has received little help from the Federal government for the significant transportation improvements needed to mitigate the effects of the BRAC action, while currently budgeted State funds to assist localities impacted by BRAC go largely to Virginia Beach to maintain operations at Oceana Naval Base. Given the large number of workers moving to and from Northern Virginia localities, additional state funds are needed for all of those affected Northern Virginia local governments. The 2009 General Assembly is requested to provide additional state assistance with:

- Infrastructure costs, especially those associated with transportation;
- Studies needed by localities to prepare for redevelopment, land use changes required for DOD contractor growth, and new construction;
- Retention of military research functions in the region;
- Attracting new tenants to space vacated as a result of BRAC;
- Job retraining costs. (*Updates and reaffirms previous position.*)

2. **Mental Health Services for Children (Comprehensive Services Act)** (*Human Services Priority*)

The Comprehensive Services Act (CSA) was adopted in 1993 to address the skyrocketing costs of residential treatment services for high-risk youth. The Act pooled eight funding streams and established a system of interdisciplinary support for youth, to improve care and reduce escalating costs, while creating a unique partnership between state and local governments to share service costs. However, pressures on state budgets have resulted in a weakening of that partnership, with the financial burden increasingly shifting to local governments, with no corresponding increase in the representation of local governments on the State Executive Council (SEC), which is the group primarily responsible for the approval of policy and administrative oversight of CSA. This imbalance threatens the gains made through CSA.

- **Support legislation that designates all CSA-eligible community-based services at the new “Community-based Service” rate, serving to mitigate the fiscal impact of the 2008 match rate changes, without jeopardizing community-based service initiatives developed in response.** The 2008 GA adopted new state CSA match rates, which provide a different reimbursement level based on the type of service. Under this change the state will provide the lowest match for residential care, the most expensive service, and the highest match for community-based services, the least expensive service, while providing no funding for the development of community-based services. This change will cost Fairfax County \$400,000 in FY 2010, assuming the continuation of current purchase of service patterns.
- **Oppose legislation that would mandate specific CSA-funded services for certain youth, or that would create sole source providers for CSA-funded services.** The 2008 GA also authorized the development of mandatory guidelines for the provision of a specific CSA-funded service, intensive care coordination. In implementing that directive,

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the Administration designated Community Service Boards as the sole source provider of that service. Localities should have flexibility in selecting services and providers, in order to ensure the most cost-effective service provision.

- **Support legislation that would place CSA within the purview of the Administrative Process Act.** To implement the 2008 CSA changes, the Administration issued three sets of proposed guidelines for public comment. As “guidelines” rather than “regulations,” the 60-day public comment period required under the Administrative Process Act does not apply, and has resulted in comment periods of less than 30 days, including one which allowed only eight working days to respond. This is simply not enough time for appropriate comment on guidelines which regulate the expenditure of hundreds of millions of state and local dollars.
- **Support increased funding for local administrative costs associated with the implementation of the CSA program by the locality.** The proper administration of CSA requires a significant amount of administrative work, including the regular collection, compilation, and submission of comprehensive data on every youth served through CSA. It has been well documented that the current state allocation to local governments to support these activities is significantly below local costs, again shifting CSA costs to the localities.
- **Support legislation that revises the structure of the State Executive Council to mirror the shared state and local government role in the administration of CSA.** The SEC plays a significant role in the CSA program, promulgating regulations, establishing fiscal policies and providing for public participation. However, while the funding of CSA is a joint partnership between the state and localities (in Fairfax County, 48 percent of CSA funding comes from local dollars), and the implementation of CSA occurs at the local level, SEC membership does not fully reflect this partnership, due to the lack of sufficient local governments representation.

## **HEALTH**

3. **Smoking Ban** -- Support a statewide ban on smoking in restaurants or other buildings frequented by the public. There is a great deal of scientific evidence on the health risks associated with exposure to secondhand smoke. The Virginia Department of Health estimates that secondhand smoke is responsible for 1,700 deaths per year, while the Campaign for Tobacco Free Kids estimates that the Commonwealth spends \$124.9 million a year on health care expenditures related to secondhand smoke exposure. There have been numerous bills introduced in recent General Assembly sessions to restrict smoking in public places or to allow localities to adopt ordinances restricting smoking in public places; in 2008 there were 12 such bills, though none were successful. If a statewide smoking prohibition is not enacted, an alternative would be to allow localities in Northern Virginia to ban smoking in restaurants and public buildings. (*New position.*)

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**TRANSPORTATION**

4. **Funding** -- Support additional state and regional transportation funding for highway, transit, bicycle and pedestrian improvements. (*Updates and reaffirms previous position.*)

Specifically, the Board, along with other Northern Virginia jurisdictions, seeks reinstatement of exclusive Northern Virginia revenues in the range of \$300 million annually, as well as Northern Virginia's portion of additional statewide revenues to address transportation needs not originally covered by the HB3202 funding approved for Northern Virginia. Both the regional and statewide revenues should be provided from stable, reliable, proven and permanent source(s). The regional revenues should provide at least \$50 million annually for Washington Metropolitan Area Transit Authority capital improvements and \$25 million annually for Virginia Railway Express capital and operating expenses.

Northern Virginia's local governments ask the General Assembly to adopt new statewide transportation revenue sources to replenish highway and transit revenue sources which are not generating sufficient funding to meet the Commonwealth's statutory 95 percent share of transit operating and capital costs (net of fares and federal assistance). This additional transit funding alone would require approximately \$188 million annually in new funds for the limited transit projects and eligible operating costs included in the Commonwealth Transportation Board's six-year program.

5. **Secondary Road Devolution** -- Oppose any legislative or regulatory moratorium on the transfer of newly constructed secondary roads to VDOT for the purposes of ongoing maintenance. Also oppose any legislation that would require the transfer of secondary road construction and maintenance responsibilities to counties. (*Reaffirms previous position.*)

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**1. EDUCATION FUNDING** *(Joint Position with Fairfax County School Board) (Updates and reaffirms previous position..)*

- a. *The Fairfax County School Board and the Fairfax County Board of Supervisors jointly support continued General Assembly attention to state funding of public education through the Standards of Quality (SOQ) and other programs.*** Fairfax County and other Northern Virginia localities more than meet their responsibilities for K-12 education funding through their large contributions to the State General Fund, strong local effort, and the effect of high local composite indices which diverts State funding away from this area. However, critical gaps still remain between state SOQ funding and the actual costs of services as faced by localities, gaps which continue to grow over time. The Boards support full funding for the biennial re-benchmark which updates the SOQ funding formulas to reflect increases in operational costs. The Boards oppose changes in the re-benchmarking process which further erode the connection between the actual costs to localities of providing a high quality education and what the state is willing to fund to provide that education.

Further, any consideration of “efficiencies and cost savings” within the Standards of Quality must be balanced with a consideration of how state mandates, and the state’s obligation to fund those mandates, affect local budgets. Attempts to balance the biennium budget by structural changes to shift costs for this State responsibility to local governments will be strongly opposed, including any reduction in the current 55 percent State share of SOQ costs and/or the elimination or reduction of Cost of Competing funding to Northern Virginia localities.

- b. *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 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.
- c. *The Boards support flexibility and additional resources to carry out federal accountability mandates.*** The Boards urge the federal government to grant implementation flexibility 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 all federal mandates, to ensure that the financial burden of these mandates does not continue to fall on local governments.
- d. *The Boards support state provision of high quality early childhood programs, provided that the state furnishes full funding for the implementation of such programs. Responsibility for early childhood program and capital facilities funding should not be shifted to localities or subject to the composite index.***
- e. *The Boards support continued cooperation and enhanced state and federal funding for after-school programs, programs addressing at-risk youth, and regional solutions addressing gang activity and 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 also support programs providing students with academic enrichment opportunities, community service opportunities, music, art, and sports in a safe environment when school is not in session.

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**ELECTIONS**

2. ***Extended Polling Hours During Emergencies*** -- Support legislation to allow local regions to make the decision to extend polling hours during emergencies. In Virginia, there is no legal procedure for extending polling hours during any emergency, from severe weather situations (as was experienced during the 2008 Presidential primary) to homeland security events.

Additionally, support legislation to allow “no-excuse” absentee voting, allowing any registered voter to vote absentee without requiring that the voter state a reason for his/her desire to vote absentee. Currently, 28 states offer “no-excuse” absentee voting, which provides voters added flexibility in exercising this critical, Constitutional right. Finally, support legislation that would provide for extended polling hours statewide to allow voters additional time to reach polling places. (*New position.*)

**ENVIRONMENT**

3. ***Endocrine Disruptor Compounds*** -- Support legislation to implement a statewide strategy to address the potential health and environmental impacts of Endocrine Disruptor Compounds (EDCs) present in Virginia’s waterways. Legislation introduced on behalf of Fairfax County in 2008 requesting the Department of Environmental Quality (DEQ) to study the impacts of EDCs in state waters was unsuccessful. However, in response to a subsequent request by the sponsors of the legislation and Fairfax County, the Governor and Secretary of Natural Resources have committed to a state strategy to address the issue. The strategy involves establishment of an interagency workgroup, headed by DEQ, to evaluate the findings of national and local studies; formulate options to apply the appropriate findings; disseminate information to the public; and evaluate a statewide, public-private program for collection and disposal of unused medicines containing EDCs. The County has offered to assist the State in the pursuit of federal grants for this effort. (*Updates and reaffirms previous position.*)

4. ***Global Climate Change*** -- Support efforts to reduce greenhouse gas (GHG) emissions through conservation, use of renewable fuels, regulations, and market-based or other incentives. As a signatory to the Cool Counties initiative, the Board supports reducing GHG emissions to 80 percent below current levels by 2050, which translates to an average annual reduction of 2 percent per year. The federal government will need to show substantial leadership on this issue in order to achieve substantial GHG reductions at the national level. Avenues by which this goal could be pursued at the state level include the following:

- ***Support a consistent state funding source to achieve the goals of the Virginia Energy Plan***, including (1) reducing energy consumption 10 percent by 2022; (2) establishing and expanding energy research and development programs; (3) funding renewable-energy grant programs; (4) providing incentives to assist the development and growth of energy-businesses and technologies; (5) broadening the scope of weatherization programs; and (6) educating consumers. (*Reaffirms previous position.*)



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- **Support legislative or executive action by the state for Virginia to join the Regional Greenhouse Gas Initiative (RGGI), absent a national cap-and-trade system for GHG emissions reductions.** The RGGI is a cooperative agreement by Northeast and mid-Atlantic states to implement a regional cap-and-trade program for carbon dioxide (CO<sub>2</sub>) emissions from power plants in the region. In the future, the RGGI may be extended to include other sources of greenhouse gas emissions, and greenhouse gases other than CO<sub>2</sub>. Currently, 10 states are full participants in the RGGI and the District of Columbia, Pennsylvania, the Eastern Canadian Provinces, and New Brunswick are program observers. Joining the RGGI entails signing an agreement to stabilize CO<sub>2</sub> emissions from the region's power plants at current levels from 2009 to the start of 2015, followed by a 10 percent reduction in emissions by 2019. A letter to this effect was sent to the Governor and the County's delegation in 2007. *(Updates and reaffirms previous position.)*
  
- **Support legislative or regulatory action to guarantee consumer rights, including ensuring that consumers have the opportunity to purchase a percentage of renewable energy through their incumbent electricity provider.** Dominion Virginia Power's proposed renewable energy tariff, which allows a customer to purchase Renewable Energy Credits to account for all or part of the customer's electricity consumption, is a laudable first step. However, should this program be approved by the State Corporation Commission, it should not foreclose consumers' opportunity to purchase electricity generated entirely from non-polluting renewable sources from licensed competitive services providers in Dominion's service territory. *(Updates and reaffirms previous position.)*
  
- **Support legislation which would provide state income tax incentives for businesses or residents to defray a portion of the cost of new construction or improvements which save energy and mitigate adverse environmental impacts.** Similar to statutes in other states, such legislation should include such factors as: 1) the amount of credit available for achieving specific design standards, such as LEED; 2) the ability to earn credit for purchasing and installing equipment utilizing renewable sources of energy, such as solar panels, and 3) the total amount of credits which may be granted by the state for the tax year. Consideration of tax incentives was included in the recommendations of the Virginia Energy Plan as a means of spurring investment in energy efficiency and conservation in the Commonwealth. *(Revises and reaffirms previous position.)*
  
- **Support legislative or regulatory action strengthening energy efficiency standards for new homes.** Buildings currently produce approximately one-third of the GHG emissions generated in the U.S., and improvements to energy efficiency requirements for new homes could significantly reduce these emissions. In fall 2008, the International Code Council approved a series of changes in the International Energy Conservation Code which could increase energy efficiency in new homes nationwide. The changes, projected to be published in spring 2009, should be adopted into the 2009 Virginia Uniform Statewide Building Code. *(New position.)*

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- **Support legislation mandating the reporting of certain greenhouse gas (GHG) emissions.** The legislation should: mandate the State Air Pollution Control Board to adopt regulations requiring the reporting of certain GHG emissions from stationary sources already required to report emissions of other air pollutants; provide authority to require those same parties to report GHG emissions from fleets of motor vehicles; and authorize the establishment of a voluntary program allowing persons to register voluntary reductions in direct or indirect GHG emissions. While legislation introduced in 2008 also would have required VDOT to provide the Department of Environmental Quality with data necessary to maintain a GHG emissions inventory for individual road segments throughout the Commonwealth, the Board will evaluate that statement and other individual components of any bill introduced in 2009 as to propriety and feasibility as well as impact on County operations. *(New position.)*

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**ENVIRONMENT** *(continued)*

5. **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 300,000 acres in the Bay Watershed through a significant investment in incentives for the voluntary donations of conservation easements and the purchase of development rights. The state should also pursue initiatives that could expand the funding available for local or regional parkland acquisition, restoration of historic sites, trail expansion, and water supply protection, particularly in densely populated areas such as Northern Virginia.

This position is in line with the Governor's goal for preservation of 400,000 acres statewide during his administration; acres preserved totaled more than 250,000 as of August 2008. Since the creation of the Virginia Land Preservation Tax Credit (VLPTC) program in 2000, more than 350,000 acres of land have been permanently protected through conservation easements. To provide stability and predictability to the state budget in the face of the popularity of this program, the 2006 General Assembly established a \$100 million cap on the program for 2007 and indexed the cap to the consumer price index for succeeding years.

The 2008 General Assembly considered revising the VLPTC program to provide a 60% of fair market value tax credit for land conveyed for the purpose of a public park, public recreational facility, or public trail access easement while continuing the existing 40% credit for all other land conveyances. The bill would have no fiscal impact because of the annual tax credit cap. The legislation was carried over in Senate Finance and merits support if it reemerges in the 2009 Session. *(Updates and reaffirms previous position.)*

**FUNDING**

6. **Investment in All Levels of Public Education** -- Fairfax County supports the General Assembly providing the resources to meet the educational needs of its residents. The Commonwealth must meet its funding responsibility to rebenchmark the K-12 Standards of Quality and fully reimburse localities for the Commonwealth's fair share, as well as increase access and affordability to students in Virginia's public institutions of higher education by working to more fully fund base budget adequacy guidelines. The General Assembly must continue to make investment in public education a priority. *(Reaffirms previous position.)*
7. **Jail Funding** -- Local governments in Virginia have historically borne a disproportionate burden of supporting jail confinement costs, as a result of significant underfunding by the Commonwealth. Fairfax County supports additional State revenues to compensate localities at a level which is commensurate with the State's responsibility for local jail operations. Specifically, the State should take the following actions:
- Adequately compensate local jails for state prisoners at a reimbursement rate that recognizes actual housing, food and medical costs. The state reimbursement rate, which has not changed in nearly 20 years, is \$8 per day until the 61<sup>st</sup> day of incarceration, and then rises to \$14 per day. In Fairfax County, the daily cost for one prisoner is \$142 per day, resulting in a

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significant local subsidy to the state.

- Meet its statutory requirement to transfer State-ready inmates (prisoners who have reached the 61<sup>st</sup> day after a court-ordered conviction) to State facilities in a timely manner. There are currently 70 out-of-compliance state inmates in the Fairfax County Adult Detention Center; in FY 2007 the net cost to the County of housing out-of-compliance state prisoners was over \$4 million.
- Appropriate funds to fulfill the Compensation Board's commitment to local jails; a Northern Virginia pay differential should be established for salary reimbursements for State-approved positions, to reflect the highly competitive Northern Virginia job market.
- Recognize new State mandates, such as the revisions to DUI laws, through additional State funding to localities to assist with the increased local confinement costs for new and repeat offenders.

**8. Service of Process Fees** -- Support legislation increasing the fees for service of process collected by local governments. State law requires local governments to remit the amount in excess of the fee amount received in FY 1994 (\$66,271 for Fairfax County) to the Commonwealth. These funds are used to cover the costs of Sheriff's office fringe benefits; once the cost of fringe benefits is covered, the excess amount is remitted back to the locality. It is likely that the Virginia Sheriffs' Association will initiate legislation during the 2009 General Assembly to increase the current fees (\$12 for in-state service and \$75 for out-of-state service). Any such fee increase must be substantial enough to cover the state's fringe benefit costs and return greater funding to localities. *(New position.)*

**9. Mental Health Rapid Urgent Care Services** -- *(Human Services Priority)*

The 2008 General Assembly responded to the tragedy at Virginia Tech by adopting a package of Mental Health Reform legislation, resulting in the first major revisions to Virginia's mental health law since 1972. These new provisions came directly from the work of Governor Kaine's Virginia Tech Review Panel, the Supreme Court's Commission on Mental Health Law Reform, and many legislative committees. Key changes to the civil involuntary commitment process and DMHMRSAS requirements were supported by \$42 million in the biennium budget, of which Emergency and Case Management services received \$28 million. While commendable as a critical first step, the deficiencies in Virginia's mental health system developed over decades, and will require a multi-year effort to rectify.

Additionally, Fairfax County should not be penalized for its local commitment and significant local funding to the Fairfax-Falls Church Community Services Board. The Fairfax-Falls Church CSB's service area is the state's largest, four times the size of the next largest CSB service area. With well over 1 million residents in its service area, the demands on this CSB remain extensive, while local governments also experience strains on local funding revenues. Support equitable funding among all the CSBs, including the Fairfax-Falls Church CSB, to meet mental health service needs when and where presented.

Continued legislative action must be focused on the following:

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- ***Immediate Access to Urgent Care/Crisis Stabilization.*** Support statutory revisions necessary to further improve and clarify procedures related to the civil commitment process for persons suffering from a serious mental illness. Support additional state funding essential to implementing these or other recommendations of the Mental Health Law Reform Commission and related proposals from the Governor, including funding necessary for: mental health emergency services (including crisis intervention), crisis stabilization services, intensive case management, and intensive residential services and psychiatric medications. More state funding also is needed for voluntary and involuntary psychiatric hospitalization.
  
- ***Immediate Access to Urgent Care/Crisis Stabilization for Children.*** Support statutory revision recommendations expected from the Supreme Court's Mental Health Law Reform Commission and others now studying the mental health systems serving children that would clarify procedures related to the civil commitment process for children with mental illness, as well as to codify procedures for mandatory outpatient treatments for children. To ensure timely implementation of any revisions, support additional state funding essential for local CSBs of all sizes to be appropriately financed to respond to the special needs of the children who live with mental illness.
  
- ***Community-based Services to Reduce the Need for Urgent Care.*** Support expanded community services that reduce the need for urgent care and often prevent serious crises. Such services must be funded by the state and targeted toward individuals who are at risk of civil mental health detention or at risk of avoidable incarceration due to serious mental illness/emotional disturbance, severe substance use disorders, or co-occurring conditions (mental illness/substance abuse, or mental illness/mental retardation).

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**GOVERNANCE**

10. **Revenue Capacity and Core Local Needs** -- (*Updates and reaffirms previous position.*) Given the critical economic situation facing all levels of government in the United States, local governments in Virginia do not have the resources to compensate for losses in state aid programs, or to pay a larger share of programs where they share responsibility for operations with the state. Relying on the property tax to replace state funding in these uncertain times is not sound fiscal policy. Unfortunately, it has increasingly become the practice of the Commonwealth to significantly underfund core services, leaving localities to fill funding gaps with local revenues in order to maintain essential services.

Additionally, the local tax structure in Virginia has become outdated, lacking the diversification necessary to fund ever-growing local core services/needs. While a structural imbalance in the Commonwealth's budget led to the enactment of significant state revenue changes by the 2004 General Assembly, the reality is that tax changes since 1999 have, in fact, reduced state revenues. Though the 2004 tax reforms yielded \$1.6 billion in additional funding for the 2008-2010 biennium, the reduction or elimination of other taxes (car tax, land preservation tax credit, estate tax repeal, and reduced sales tax on food, among others) have actually created a reduction in state revenues of nearly \$1.9 billion.

Given the situation described above, Fairfax County seeks 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 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 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, further eroding the local tax structure's flexibility and capacity and jeopardizing 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. 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 and 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 those mandates are prescriptive and allow little flexibility.

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**GOVERNANCE** *(continued)*

11. **Videoconferencing for Certain Citizen Boards, Authorities, and Commissions** -- Support legislation to establish a limited exception to provisions of the Virginia Freedom of Information Act that would permit certain local citizen boards, authorities, and commissions to conduct meetings via videoconferencing. Increasing the use of video conferencing, particularly in this time of high fuel and energy costs, would serve several goals, including (1) increasing volunteerism, especially among senior citizens, and (2) reducing time commitments and long commutes on congested roads that now serve as impediments to those persons who serve on advisory panels. Reducing the travel required to participate in meetings also would conserve fuel and lower greenhouse gas emissions. Such a proposal should be crafted to apply only to entities that meet in an advisory capacity and are not required by statute. For example, the meetings of the Library Board, the Park Authority, the Planning Commission, and other entities established pursuant to state law should continue to meet in person, but optional Board-appointed entities, like the Environmental Quality Advisory Council, the Athletic Council, and the Tenant Landlord Commission, should be able to meet by video teleconference. *(New position.)*

**HOUSING**

12. **Code Enforcement – Cost of Graffiti Removal** -- Support amending §15.2-908 to authorize local governments to recover the cost of graffiti removal from owners of vacant property when the local government is forced to remove graffiti using its own resources, similar to the way the County may recoup costs associated with blight abatement. Currently, the Virginia Code permits the County to charge property owners for the costs of blight abatement undertaken by the County. The County may pursue reimbursement in any manner provided by law for the collection of state or local taxes, one of which is the placement of a lien upon the blighted property and recordation of the lien in the County land records. *(New position.)*

**LAND USE**

13. **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. *(Reaffirms previous position.)*
14. **Proffers** -- Oppose any changes to current rezoning proffer authority for local governments. However, in the event the General Assembly does enact any changes diminishing current authority, Fairfax County should be exempted from any such legislation. *(New position.)*

**PROCUREMENT**

15. **Increase in Formal Procurement Threshold** -- Support legislation to increase the formal procurement threshold and contract modification threshold to \$100,000. The current threshold of \$50,000 for goods and non-professional services was established in 2000. The effect of inflation on the government's purchasing power has, in effect, lowered the threshold and caused an

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increase in workload, as more goods and services must be purchased through the formal procurement process. *(Reaffirms previous position.)*

**PUBLIC SAFETY**

16. **Pedestrian Safety** -- Support revisions to Virginia's existing pedestrian legislation to clarify the responsibilities of drivers and pedestrians in order to reduce the number of pedestrian injuries and fatalities that occur each year. In particular, support legislation that would require motorists to stop for pedestrians in crosswalks at unsignalized intersections on roads where the speed is 35 mph or less and at unsignalized crosswalks in front of schools. Recent events throughout the region have highlighted a growing concern for the safety of pedestrians attempting to cross streets. This issue is of special importance for pedestrians with physical or sensory disabilities, who are at particular risk of injury when crossing streets, even in front of schools with crossing guards. 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.)*
17. **Sex Offenders** -- Support sufficient State General Funds for the Virginia State Police's Sex Offender Investigative Unit (SOIU) to carry out its mission of thoroughly monitoring the Sex Offender Registry (SOR), including an equitable distribution of SOIU officers for Fairfax County. As a result of recommendations from the Crime Commission, the 2006 General Assembly provided \$5.1 million in FY 2007 and \$3.7 million in FY 2008 for 45 additional law enforcement positions (40 investigators, 5 supervisory/support) to improve the accuracy and monitoring efforts of the SOR. Of the 13,000 registered sex offenders in Virginia as of December 1, 2006, approximately 5,000 are monitored by the State Police, providing a ratio of one trooper per 120 sex offenders (higher than the 1:100 ratio envisioned by the 2006 GA).

This new unit, the Sex Offender Investigative Unit (SOIU), became fully operational and staffed by May 2007, according to the Virginia State Police. However, there are currently only two officers assigned to Fairfax County, with only four assigned to Division 7 (Fairfax, Loudoun, Prince William, Arlington, Alexandria). *(New position.)*

18. **Teen Motor Vehicle Safety** -- In concert with the Board's initiative to make violation of the ban on cell phone use by underage drivers a primary offense, support the following proposals:
- Support 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. A similar bill (SB 1040) was left in committee in 2007.)
  - 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.
  - 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. *(Updates and reaffirms previous position.)*



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**TELECOMMUNICATIONS**

19. **Authority --** (*Reaffirms previous positions.*) Support the following 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, public, educational, and governmental channels and financial support, customer service provisions, and technical and construction standards, and that local governments are fully compensated for the use of their rights-of-way by cable companies.
- **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., monopoles, towers, and related structures).
- **Preserve local control over road and property management.** Fairfax County opposes any reduction, preemption, or circumvention of VDOT's or the County's authority to manage and oversee highway rights-of-way or the County's authority to manage its property.

**TAXATION**

20. **Communications Tax --** (*Revises previous position.*) Support remediation or legislative action, if necessary, to protect the short- and long-term financial interests of local governments based upon implementation of the new telecommunications tax law, which repealed many local taxes and replaced them with a statewide communications tax, effective January 1, 2007. 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; 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. Based on FY 2008 revenues, Fairfax County is receiving approximately 94% of the amount generated from the locally levied communication taxes in FY 2006.