ITEMS FOR CONSIDERATION

IN PREPARATION OF THE FAIRFAX COUNTY LEGISLATIVE PROGRAM

2024 VIRGINIA GENERAL ASSEMBLY

October 17, 2023

INDEX

ITEMS FOR INITIAL CONSIDERATION

FUNDING – STATE FUNDING FOR LOCAL FINANCE DIRECTORS

PROPOSAL:

Support legislative or budget action to restore state funding for the salaries of local finance directors through the State Compensation Board.

SOURCE:

Department of Tax Administration
September 2023

Department of Management and Budget
September 2023

BACKGROUND:

In Virginia, funding for the offices of Constitutional Officers (so named because their offices are specifically established by the Constitution of Virginia), is a shared responsibility for the state and localities. The Commonwealth of Virginia's Compensation Board is tasked with determining the state's contribution toward the total cost of office operations for Constitutional Officers (including the Clerk of the Circuit Court, Commissioners of the Revenue, Commonwealth's Attorneys, Sheriffs, and Treasurers). Each year, the General Assembly (GA) determines the total amount of funds and positions available to each group of Constitutional Officers. Also, on an annual basis (February 1 of each year), Constitutional Officers submit their funding requests to the Compensation Board. Once the GA budget process is completed, a budget hearing is held, and the Compensation Board determines the budget for each individual Constitutional Officer and their locality. The approved Compensation Board budget is typically approved on May 1 of each year, effective the following July 1. In 2023, this process was more challenging than usual because the 2023 budget amendments were finalized so late in the process (in September 2023), so the typical timelines were not utilized.

Commissioners of the Revenue are the chief tax assessing officers in Virginia's cities and counties, while Treasurers are the chief financial officers for their localities, collecting taxes and local fees, and making payments on behalf of the local government. However, localities in Virginia are authorized to structure their taxation and finance functions in a number of ways. Though in many localities Commissioners of the Revenue and Treasurers are elected offices, that is not a requirement, and localities have the option to structure their departments to carry out this work at the local level through professional staff known as the Local Finance Director appointed by the locality's governing body. In Fairfax County, the Department of Tax Administration (DTA), in conjunction with the Department of Finance, acts as the Local Finance Director, which performs the statutorily prescribed duties of officers who hold the combined Office of County Treasurer and Commissioner of the Revenue and their deputies. All of these offices perform the same duties as Constitutional Officers under the law.

There are three ways localities can choose to structure their department to carry out this work at the local level – Local Commissioners of Revenue, Local Treasurers, and Local Finance Directors. All three of these offices perform the same duties under the law, the only differences being how the localities set up the departmental structure for staff who oversee this work and the state budget line item they are funded through – Budget Item 75 for Local Commissioners of the Revenue, Budget Item 78 for Local Treasurers, and Budget Item 74 for Local Finance Directors.

In FY 2011, during the Great Recession, the state reduced funding for these offices, leaving many positions unfunded by the state. Over time, state funding for a number of these positions has been restored (though state funding remains well below the actual cost of these positions, requiring the County to provide the remainder of the funding through local dollars). However, of the 148 positions in DTA, 43 remain unfunded by the state in the approved Compensation Board budget (in other words, 29 percent of the County's positions are unfunded).

In HB 6001 (the amended 2022-2024 biennium budget enacted in September 2023), the GA sought to provide funding to restore salaries for all unfunded positions. Unfortunately, the various local models for this work are funded through different sections of the state budget, and it has recently come to staff's attention that the GA only restored funding in the section of the budget that relates to Commissioners of the Revenue and Treasurers, but not to the section that relates to Local Finance Directors. This appears to have been an oversight, but will nevertheless need to be addressed legislatively by the 2024 GA to ensure funding for localities using the same model Fairfax County does are also reimbursed (some other affected localities include the Cities of Alexandria and Richmond, and the Counties of Albemarle, Henrico, and Prince William). If state funding for these positions is restored, it is estimated that Fairfax County would receive a reimbursement of an additional $620,401 in FY 2025 and $676, 801 in FY 2026 from the Compensation Board.

RECOMMENDATION:

Direct staff to work with other affected localities to initiate budget action to restore funding for all unfunded positions for local governments that operate under the Local Finance Directors model, as is the case for state funding for local governments that operate under other models.

HUMAN SERVICES – LONG-TERM CARE WORKFORCE NEEDS

PROPOSAL:

Add language to the Long-Term Care Workforce Needs position in the Legislative Program in support of legislation that helps assisted living facilities (ALFs) and community-based care settings recruit and retain highly qualified, well-trained staff (which is currently difficult due to low wages, limited benefits, and stressful working conditions).

SOURCE:

Health Care Advisory Board
October 2023

Long-Term Care Coordinating Council
August 2023

BACKGROUND:

Assisted Living Facilities

ALFs are residential settings that provide or coordinate personal and health care services, 24-hour supervision, and assistance to older adults and people with disabilities. Most ALFs in Virginia serve residents who pay with private funds. A very limited number of ALFs accept auxiliary grant (AG) recipients (individuals with very low income).

Current Virginia law requires ALFs to have a sufficient number of qualified staff to implement resident assessments and individualized care plans, but does not prescribe ratios or minimum staff floors, with two exceptions – first, one direct care worker must be awake and on duty at all times, and second, two direct care workers must be awake and on duty at all times in specialty care units (for example, memory care) licensed for at least 10 residents with more than three individuals diagnosed with serious cognitive impairments. Many ALFs are chronically understaffed, with high turnover among direct care workers, including nurses and certified nursing assistants. Recruitment and retention of highly qualified, dependable staff has been difficult because of low wages, limited benefits (i.e., paid sick leave), and stressful working conditions. Residents who do not receive proper care are at greater risk of poor health outcomes, and among memory care units, inadequate staffing has unfortunately contributed to elopements (unsupervised wandering that results in a resident leaving the facility), some resulting in injury and death. However, staffing is only one of many issues that contribute to quality of care.

In a study by the Joint Commission on Health Care (JCHC) in 2018, several ALF administrators noted that requiring a fixed staff-to-resident ratio could create inefficiencies by limiting flexibility to address patients' varying needs throughout the day, potentially leading to overstaffing or understaffing at times (for example, more staff could be necessary when many residents need the same kind of assistance around the same time of day, such as with bathing, while fewer staff may be necessary at night while residents are sleeping). Additionally, ALF providers raised concerns about increasing staffing requirements, noting that such staffing increases could be costly, resulting in higher rates for private-pay residents and/or reductions in the number of AG recipients they are able to serve. Ultimately, the JCHC recommended a budget amendment to raise the AG rate. The GA has raised AG rates a couple of times since 2018, including most recently in the September 2023 budget agreement, where rates were increased from $1,609 per month to $2,055 per month, with an additional 15 percent Northern Virginia differential, effective January 1, 2024. Despite this increase, AG rates remain low, and it is unclear whether the rates will lead to more facilities accepting AG recipients (as the new rates are not effective until January, it will take some time to determine the impact).

Increasing staffing standards could have a fiscal impact on the County. In particular, if staffing standards were put in place for ALFs, the County's expenses could increase. The Fairfax County Redevelopment and Housing Authority (FCRHA) owns two ALFs, Braddock Glen and Lincolnia. The properties pay for staffing through the rent revenue received from the communities, which are affordable housing facilities serving low- and moderate-income individuals. In addition to staffing, rent revenue covers all operational expenses, including administrative expenses, utilities, maintenance, debt service, taxes, insurance, and payments to the FCRHA's Reserve Fund for future capital needs. Both properties score well on state inspections relating to staffing, care, and operations. The properties operate on very little profit, as they are designed to serve low-income County residents, and increasing staffing requirements would increase the operating costs of these facilities. Lincolnia receives $1.54 million annually in additional funding from the County to help cover operational expenses, including a senior center that serves the public.

Such a staffing change could also have cost implications for Birmingham Green, a nursing and assisted living facility in Manassas that was established by five localities in Northern Virginia (Fairfax County, Prince William County, Loudoun County, Fauquier County, and the City of Alexandria). At this time, with exact costs unknown, the County's fiscal impact is indeterminate, though it could be significant. Birmingham Green receives funding for operating costs through a variety of sources, including Medicaid, Medicare, other insurance, and out-of-pocket payments – to the extent that these sources are inadequate to cover the full costs of the facility's operations, Fairfax County and the four other local sponsoring jurisdictions provide funding to subsidize the facility on a user formula basis. Each jurisdiction pays for personnel and operating expenses at a level proportionate with the number of that jurisdiction's residents.

Community-based Care Settings

It is important to note that workforce issues (including low salaries, stressful working conditions, other staff/supervisors filling in for vacancies, and administrative barriers) exist across the long-term care continuum, and the need to recruit and retain staff is also critical in community-based care settings to ensure a high quality of care. These settings allow for individuals to receive services and supports in their own home or community, rather than in institutions or other isolated settings, helping them maintain a sense of independence and security. Services may include personal care, adult day health care, private duty nursing, veterans' services, services for traumatic brain injury survivors, and assistive technology, among others, and could include assistance with activities of daily living (such as eating, bathing, and dressing) as well as instrumental activities of daily living (such as preparing meals, managing medication, and housekeeping).

While many long-term care services are operated by community providers, the County does provide (or contracts to provide) some community-based long-term care services. The Department of Family Services (DFS) operates a home-based care program that provides home health assistance to vulnerable adults who meet financial and functionality eligibility standards through a contractor. The program is primarily funded with County General Funds, though some partial funding is provided by federal Social Services Block Grant funds. Though potential legislation related to staffing could have a nominal fiscal impact, the success of the program depends on the ability of the contractor to recruit and retain staff.

The County also provides adult day health services through the Department of Neighborhood and Community Services (NCS). Most adult day health participants pay with long-term care insurance or they pay out of pocket. Medicare does not reimburse for adult day care, while Medicaid only reimburses those individuals who have waivers, although the Medicaid reimbursement rate is low and does not accurately reflect the cost of care. There is currently a required 1:6 staff-to-resident ratio for adult day health services. If the ratio were lowered, the County would need to add additional County positions to meet the new requirement or decrease the number of individuals served at its four facilities. Further, County facilities do not currently experience high turnover as the County benefits and wages are more than competitive compared with the industry standard. If staffing standards increased for all providers without a corresponding increase in wages and benefits, the quality of care could continue to be an issue as turnover may remain high. Staff consistency is a component of quality care for this population.

<u>RECOMMENDATION:</u>

Direct staff to monitor for the introduction of legislation during the 2024 General Assembly session in order to bring relevant bills back to the Board of Supervisors for consideration at Legislative Committee. The draft Legislative Program includes language in the Medicaid Waivers position in support of ensuring a living wage for personal care attendants, consumer-directed personal assistants, respite care workers, and other caregiving roles that are funded through Medicaid waivers. However, this proposal seeks to focus on settings beyond those covered by Medicaid Waivers.