

2009 Thomas Jefferson Planning District Legislative Program

Representing the Local Governments of:

**Albemarle County
City of Charlottesville
Fluvanna County
Greene County
Louisa County
Nelson County**

September 2008

**Connie Brennan, Chairman
Billie J. Campbell, Acting Executive Director
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ACTION ITEMS

LOCAL and STATE FUNDING OBLIGATIONS

*Legislative Position of TJPDC, Charlottesville,
and the Counties of Albemarle, Fluvanna, Greene, Louisa and Nelson*

The Planning District localities urge the governor and legislature to honor their funding obligations to services provided in cities and counties by their local government partners, and to resist shifting fiscal responsibility for these programs to localities.

After approving a FY09-FY10 state budget that included spending reductions of nearly \$2 billion, the state faces continuing revenue shortfalls that likely will result in an additional \$1 billion to \$2 billion in cuts over the biennium. Reductions in aid to various local programs and services totaled nearly \$250 million, including a \$100 million cut that required localities to decide how to absorb the shortchanging; for FY09 alone, this means a \$1.4 million shortfall to localities in our region. We particularly are concerned about potential state reductions in public education, public safety and health/human services. We believe state funding reductions for state-required services/programs should be accompanied by relaxation of the state requirement or flexibility for the locality to meet the requirement.

Local governments, which are overly dependent on the real estate tax that presently is producing less revenue due to the sluggish housing market, cannot continue to pick up the slack when the state retreats from its obligations. Unfunded and underfunded state mandates/commitments and “cost shifting” by the state reduce the ability, especially in our rural localities, to meet local needs, and force our citizens to bear local tax and fee increases to pay for programs and services. Service cuts will have a direct and harmful effect on the lives and well-being of our citizens who expect, rely and need programs in critical areas such as education, safety and human services. In addition, increased demand for services that are primarily funded at the local level present unique challenges to rural, urban and fast-growing localities alike (all present in our region).

Finally, any changes to Virginia’s tax code should not reduce local government revenues or restrict local taxing authority. The legislature should broaden the revenue sources available to local governments, rather than capping, removing or restricting them. The state should refrain from establishing local tax policy at the state level and allow local governments to retain authority over decisions that determine the equity of local taxation policy, if governing bodies are to provide cost-effective services. This includes the processes for setting real estate tax rates and developing and approving budgets, which are integrated processes that are effective in involving the public and ensuring efficient tax administration. Recent, proposed changes to these processes would have upset this balance.

LAND USE and GROWTH MANAGEMENT

*Legislative Position of TJPDC, Charlottesville,
and the Counties of Albemarle, Fluvanna, Greene, Louisa and Nelson*

The Planning District localities encourage the state to provide local governments with additional tools to manage growth, without preempting or circumventing existing authorities.

The past few years have seen an increase in both mandated and optional land use provisions applicable to local governments to address growth issues. Still, current land use authority often is inadequate to allow local governments to provide for balanced, sustainable growth in a manner that protects and improves quality of life.

Last year, the General Assembly considered SB 768, a measure that would have repealed local authority to accept voluntary cash proffers from new residential projects and limited the ability to accept off-site non-cash proffers, while revising existing impact fee authority, capping the amount of impact fees a locality can impose at \$7,500 per unit. While we support efforts to have impact fee and proffer systems that are workable and meaningful for various parties, we oppose attempts to weaken our current proffer authority.

Rather, we support revising the road impact fee authority adopted in 2007 to include additional localities and to provide for the following: 1) a fair allocation of the costs of new growth on public facilities; 2) facility costs that include, but are not limited to, various transportation modes, schools, public safety, libraries and parks; 3) effective implementation and reasonable administrative requirements; and 4) no caps or limits on locality impact fee updates.

Further, to enhance our ability to pay for infrastructure costs and to support services associated with new developments, we endorse enabling legislation and optional provisions that include the following:

- Authority for local ordinances for determining whether public facilities are adequate (“adequate public facility,” or APF ordinances)
- Optional cluster development as a land use tool for local governments.

We also support 1) dedicated funding through the Virginia Land Conservation Foundation for the acquisition, preservation and maintenance of open space and recreation lands, 2) full authority to generate local dollars for such efforts, and 3) additional incentives for citizens to create conservation easements, including removing the cap on conservation easement tax credits approved in 2006. We request the state increase, from five years, the roll-back taxes assessed against property under land use taxation that changes to a non-qualifying use to an amount equal to the sum of the deferred tax for each of the 10 most recent complete tax years. Finally, we support authority for localities to enact scenic protection and tourist enhancement districts.

TRANSPORTATION FUNDING

*Legislative Position of TJPDC, Charlottesville,
and the Counties of Albemarle, Fluvanna, Greene, Louisa and Nelson*

The Planning District localities urge the state to establish separate, dedicated and permanent state revenue streams for our transportation infrastructure. The state also should not shift road maintenance and construction responsibilities to localities.

The need to fund a declining transportation infrastructure is dire and state dollars remain inadequate. Local governments need sustainable, dedicated, non-general funds from the state to support our transportation network. Absent such an investment, Virginia faces a congestion and mobility crisis that will stifle economic growth and negatively affect the quality of life of our residents.

This past spring, the Commonwealth Transportation Board approved a \$1.1 billion reduction to the Six-Year Improvement Program, meaning construction budgets for primary, secondary and urban roads were slashed by 44%, while transit was cut by 10%. Instead, those dollars are being transferred to the highway maintenance budget. It is expected that \$400 million will have to be transferred from construction to maintenance in each of the next two years to cover the maintenance shortfall, a figure that will grow as revenues coming into the state's transportation coffers continue to slow.

The state should direct its funding efforts at all transportation modes both statewide and regionally, targeting investments toward solutions that put money to work on new ideas and in tandem with leveraging private investment. It should account for urban area needs where public transportation is very important, the increasing traffic demands placed on fast-growing localities and the ongoing improvements necessary on rural, secondary roads. These improvements are vital to our region's ability to respond to local and regional congestion and economic development issues.

We support ongoing state and local efforts to coordinate transportation and land use planning, without eroding local land use authority, and state incentives for localities that do so. We urge VDOT to be mindful of local comprehensive, land use and trail/bicycle plans, as well as regional transportation plans, when planning transportation systems within a locality. We also request the following:

- Legislative support for enabling authority to establish a Regional Transit Authority for Charlottesville/Albemarle
- State funding for improvements along rural sections of the Rt. 29 corridor
- Increased funding for the revenue-sharing program
- Support for passenger rail service for the Piedmont corridor (TransDominion Express)
- Allowing the use of Rural Rustic Road funds to pave rural addition roads
- Increased funding to help mitigate transportation, environmental and other impacts (e.g. educational facilities) on localities affected by recommendations of the Defense Base Closure and Realignment Commission (BRAC).

COMPREHENSIVE SERVICES ACT

*Legislative Position of TJPDC, Charlottesville,
and the Counties of Albemarle, Fluvanna, Greene, Louisa and Nelson*

The Planning District's member localities urge the state to be partners in containing costs of the Comprehensive Services Act (CSA) and to better balance CSA responsibilities between state and local government.

Since the inception of the Comprehensive Services Act in the early 1990's, there has been pressure to hold down costs, to cap state costs for serving mandated children, to increase local match levels and to make the program more uniform by attempting to control how localities run their programs. State and local costs of residential and non-residential mandated services continued to increase; from 2006 to 2007, CSA pool expenditures for state and local governments rose 16% (from \$295 million to \$342 million). Costs also have been difficult to forecast because of factors beyond state and local control (number of mandated children in a community, severity of problems, service rates, availability of alternative funding). Further, localities pay the overwhelming majority (90%) of costs to administer CSA. Over the last decade, the state has increased administrative responsibilities, but not administrative funding dollars to localities.

The FY09/10 budget modified the local share of funding for community and residential services on a "phased-in" basis, by lowering the local share for community-based services as an incentive to serve children who can be appropriately cared for in the community, and then increasing the local share for residential services. Unfortunately, the approved service definitions do not include some services provided in the community as such, and therefore they will not qualify for a lower local match. Local governments are troubled by the haste with which service definitions were proposed and approved, that local governments were not part of the team that developed the definitions and that the changes will have a negative local fiscal impact.

We support the following: 1) full funding of the state pool for CSA, with allocations based on realistic anticipated levels of need; 2) increased state funding for CSA administrative costs; and 3) a state cap on local expenditures in order to combat higher local costs for serving mandated children, costs which often are driven by unanticipated placements in a locality. The state also should be proactive in making residential facilities and service providers available, especially in rural areas.

In a further effort to help contain costs and provide some relief to local governments, we recommend that the state establish contracts with CSA providers to provide for a uniform contract management process, improve vendor accountability and control costs. We encourage the state to consider penalties for individuals who have had children removed from their care due to abuse or neglect. Finally, we support local and regional efforts to address areas of cost sharing among localities by procuring services through group negotiation.

PUBLIC EDUCATION FUNDING

*Legislative Position of TJPDC, Charlottesville,
and the Counties of Albemarle, Fluvanna, Greene, Louisa and Nelson*

The Planning District localities urge the legislature to fully fund the state share of the realistic costs of meeting the Standards of Quality (SOQ) and to enhance teacher salaries to help recruit and retain high-quality instructional personnel.

The state spends nearly \$6 billion/year on public education, roughly one-third of its general fund budget. Local governments, likewise, appropriate a similar amount and spend far more local dollars on educating children than the state requires. In these tight fiscal times, the state should resist changes that require localities to fund a greater share of K-12 education costs, such as proposals that recalculate personnel salaries by recognizing only state (and not also local) costs, and that increase the federal revenue deduction, which results in a savings to the state but an increase in required local costs. State funding should be realistic and recognize actual educational needs, practices and costs (including operational, capital and maintenance costs for school facilities and transportation). Otherwise, more of the education funding burden would fall on local real estate taxes. We also support establishment of a mechanism for local appeal of the calculated Local Composite Index (LCI) to the state; changes to the LCI that negatively impact a locality also drive up local taxes.

The state budgeted teacher salary figure (on which it bases its share of teacher costs) trails the statewide and national averages. Teacher pay comprises the majority of K-12 expenditures, and local market conditions dictate the level of pay required to recruit and retain quality teachers. We believe that the localities in our region should be included in the “Cost of Competing Adjustment” now available only to various localities primarily in Northern Virginia. This would help our localities to reach and maintain competitive compensation to help recruit, develop and retain a highly qualified and diverse teacher workforce.

Regarding school capital needs, we continue to urge state financial assistance with school construction and renovation needs, including funding for the Literary Loan and interest rate subsidy programs. The state should resist its customary seizing of dollars from the Literary Fund to pay state costs for teacher retirement (nearly \$300 million is being diverted in the current biennium). We also support an increase in the maximum amount of Literary Fund loans from the current \$7.5 million.

AREAS OF CONTINUING CONCERN

ECONOMIC and WORKFORCE DEVELOPMENT

The Planning District's member localities recognize economic development and workforce training as essential to the continued viability of the Commonwealth. We support policies that closely link the goals of economic and workforce development and the state's efforts to streamline and integrate workforce activities and revenue sources. We also support increased state funding for workforce development programs.

- We support the governor's Economic and Workforce Development Strategic Plan for the Commonwealth that more clearly defines responsibilities of state and local governments and includes new tools for local governments to use in attracting economic development opportunities.
- We support enhanced funding for the Regional Competitiveness Act to continue meaningful opportunities for regional projects. We also support enhanced state funding for the Industrial Site Development Fund, the Governor's Opportunity Fund and tourism initiatives that help promote economic development in localities and regions.
- We encourage the state and local governments to work with other entities to identify and promote local, regional and state agricultural products.
- ~~We support increased state funding for workforce development programs.~~
- We appreciate and encourage continuing state incentives and support for expanding broadband technology in underserved areas.

ENVIRONMENTAL QUALITY

The Planning District's member localities believe that environmental quality should be funded and promoted through a comprehensive approach, and address air and water quality, solid waste management, land conservation, climate change and land use policies. We are committed to the protection and enhancement of the environment and recognize the need to achieve a proper balance between environmental regulation and the socio-economic health of our communities within the constraints of available revenues. Such an approach requires regional cooperation due to the inter-jurisdictional nature of many environmental resources, and adequate state funding to support local and regional efforts.

We believe the following:

- The state should not impose a fee, tax or surcharge on water, sewer, solid waste or other local services to pay for state environmental programs. To do so would set a disturbing precedent whereby the state could levy surcharges on local user fees to fund state priorities.
- The state should reduce permit application fees associated with stormwater management and stream mitigation projects, as past fee increases have adversely impacted local abilities to adopt regional stormwater management programs and to

undertake projects needed for stream protection. Fees should be used only to cover costs of administering the program.

- The legislature should provide funding for wastewater treatment and other necessary assistance to localities as it works to clean up the state's impaired waterways, while ensuring that system design standards remain compatible with any new state requirements. The state also should explore alternative means of preventing and remediating water pollution.
- The state should not enact legislation mandating expansion of the area covered by the Chesapeake Bay Preservation Act. Instead, the state should 1) provide legal, financial and technical support to localities that wish to comply with any of the Act's provisions, 2) allow localities to use other practices to improve water quality, and 3) provide funding for other strategies that address point and non-point source pollution.
- The state should be a partner and advocate for localities in water supply development and should work with and assist localities in addressing water supply issues, including investing in regional projects. Also, the state's water supply planning efforts should continue to involve local governments.
- The state should expand the list of localities that may, by ordinance, require conservation of trees during the development process.
- The state should 1) ensure landfill closure schedules permit facilities posing no threat to property or the public to continue to operate through their allowable life, and 2) provide adequate funding for landfill closure and post-closure costs.
- We support increased local government representation on the Biosolids Use Regulation Advisory Committee (BURAC).

HEALTH and HUMAN SERVICES

The Planning District's member localities recognize that special attention must be given to developing circumstances under which people, especially the disabled, the poor, the young and the elderly, can achieve their full potential. Reductions to community agencies are especially troublesome, as their activities often end up preventing more costly services later. The delivery of health and human services must be a collaborative effort from federal, state and local agencies. We urge the General Assembly to ensure funding is available to continue such valuable preventive services.

- We oppose any changes in state funding or policies that result in an increase of the local share of costs for human services, including changes that would require additional local contributions for indigent care.
- The state should increase funding to the Virginia Juvenile Community Crime Control Act (VJCCCA) program, which has produced a nearly 50% drop in Department of Juvenile Justice commitments since 1998. Further, the state should maintain a formula-driven allocation process for VJCCCA funding.
- The state should provide sufficient funding to allow Community Services Boards (CSBs) to meet the challenges of providing a community-based system of care, including maximizing the use of Medicaid funding. We believe children with mental health needs should be treated in the mental health system, where CSBs are the point of entry. We

support state action to increase investment in the MR waiver program for adults and young people and Medicaid reimbursement for children's dental services. We also oppose any shifting of Medicaid matching requirements from the state to localities.

- We support efforts to fund mental health and substance abuse services at juvenile detention centers.
- We oppose new state or federal entitlement programs that require additional local funding.
- We support sufficient state funding for local social services facilities and for local departments to maintain adequate office space to deliver services. We also request that the state provide funds for staffing local social services departments to 1) determine eligibility for residents seeking social services such as Medicaid, food stamps and Temporary Assistance to Needy Families (TANF), and 2) meet child and family services review goals. We also support state assistance for providing pre-admission screening services for nursing homes and for prompt investigation and services in cases involving abuse, neglect or exploitation of the elderly or disabled.
- We support continued state funding for local Disability Services Boards, as well as restored state dollars for the Rehabilitative Services Incentive Fund.
- We support sufficient state funding assistance for older residents, to include companion and in home services, home delivered meals and transportation.
- We support the continued operation and enhancement of early intervention and prevention programs (and renewal of CSA Trust Fund dollars to support them), including school-based prevention programs which can make a difference in children's lives. This would include the state's program for at-risk four-year-olds, the Child Health Partnership and Healthy Families programs.
- We support Virginia's welfare reform program and encourage efforts to promote family preservation and work requirements. The legislature should provide full funding to assist low-income working and TANF (and former TANF) families with childcare costs. These dollars help working-class parents pay for supervised day care facilities and support efforts for families to become self-sufficient. We oppose any initiatives to shift traditional federal and state childcare administrative responsibility and costs to local governments. We support state efforts to expand access to education and training needed by welfare recipients to become employed and self-supporting. We believe the current funding and program responsibility for TANF employment services should remain within the social services realm. We also support a TANF plan that takes into account and fully funds state and local implementation and support services costs.

HOUSING

The Planning District's member localities believe that every citizen should have an opportunity to afford decent, safe and sanitary housing. The state and local governments should work toward expanding and preserving the supply and improving the quality of affordable housing for the elderly, the disabled and low- and moderate-income households. Regional housing solutions and planning should be implemented whenever possible.

- We support changes to the Code to allow 1) local flexibility in the operation of affordable housing programs, 2) for creation of a state housing trust fund, 3) establishment of affordable dwelling unit ordinances, 4) the award of grants and loans to low- or moderate-income persons to aid in purchasing dwellings, and 5) the provision of other funding to encourage affordable housing initiatives.
- We support measures to prevent homelessness and to assist the chronic homeless.
- We support incentives that encourage rehabilitation and preservation of historic structures.
- ~~In addressing the lack of input that local governments have concerning housing issues, we support local government notice provisions for all proposed low and moderate-income housing projects seeking federal tax credits, including VHDA.~~
- We support VHDA criteria for funding which encourages rehabilitation of existing housing and discourages new construction in close proximity to existing subsidized housing.
- We support retaining local discretion to regulate the allowance of manufactured homes in zoning districts that permit single-family dwellings.
- We encourage and support the use of, and request state incentives for using environmentally friendly (green) building materials and techniques, which can contribute to the long-term health, vitality and sustainability of the region.

PUBLIC SAFETY

The Planning District's member localities encourage state financial support, cooperation and assistance for law enforcement, emergency medical care, criminal justice activities and fire services responsibilities carried out locally.

- We ~~encourage~~ urge the state to make Compensation Board funding a top priority, fully funding local positions that fall under its purview. It should not increase the local share of funding constitutional offices or divert funding away from local offices, but increase money needed for their operation, as local governments have continued to provide much supplemental funding for constitutional officer budgets.
- We ~~support~~ urge continued state funding of the HB 599 law enforcement program (in accordance with Code of Virginia provisions), drug courts and the Pre-Release and Post-Incarceration Services (PAPIS), Community Corrections and Pretrial Services Acts.
- The state should continue to allow exemptions from the federal prisoner offset and maintain the per diem payment to localities for housing state-responsible prisoners.
- We urge state funding for the Volunteer Firefighters' and Rescue Squad Workers' Service Award Program and other incentives that would help recruit and retain emergency service providers. Further, the state should improve access to and support for training for volunteer and paid providers.
- We encourage shared funding by the state of the costs to construct and operate regional jails; however, we do not believe the state should operate local and regional jails.
- We urge local involvement in planning processes for homeland security measures.
- We support state funding to develop supervised visitation centers to protect children during visitation with non-custodial parents, when ordered by a court.

LOCAL GOVERNMENT STRUCTURE and LAWS

The Planning District's member localities believe that since so many governmental actions take place at the local level, a strong local government system is essential. Local governments must have the freedom and tools to carry out their responsibilities.

- We support legislation to enhance the ability of local governments to provide services required by citizens and to meet their responsibilities in state/local partnerships. Accordingly, we support a requirement for state agencies to notify localities of planned construction projects that may affect the locality's comprehensive plan.
- We oppose intrusive legislation involving purchasing procedures; local government authority to establish hours of work, salaries and working conditions for local employees; matters that can be adopted by resolution or ordinance; and procedures for adopting ordinances.
- We request that any changes to the Virginia Freedom of Information Act (FOIA) preserve 1) a local governing body's ability to meet in closed session, 2) the list of records currently exempt from disclosure under FOIA, and 3) provisions concerning creation of customized computer records. We support changes to allow local and regional public bodies to conduct electronic meetings as now permitted for state public bodies.
- We support local requests to the state for enabling legislation to increase the income and financial worth limitations for real property tax exemption or deferral programs. We also support enabling legislation that allows property tax relief for community land trusts that hold land for the purpose of providing affordable homeownership.
- We encourage clarification of Code provisions that stipulate law enforcement responsibilities when transporting persons for whom a temporary detention order has been issued for emergency medical treatment or evaluation.
- We oppose any changes to state law that further weaken a locality's ability to regulate noise or the discharge of firearms.
- We support expanding local authority to regulate smoking in public places.
- ~~We support enactment of an interest rate cap of 36% on payday loans.~~
- The state should amend the Code to require litigants in civil cases to pay for the costs associated with compensating jury members.
- We support state funding for regional planning districts.
- We support legislation to increase permissible fees for courthouse maintenance.
- The state should ensure that local connectivity and compatibility are considered in any centralizing of state computer functions.
- The state must ensure that the continued implementation of electric utility restructuring is revenue neutral to localities and that any necessary stopgap appropriations to adversely affected localities are fully funded.