



# NORFOLK

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## Inter Departmental Memorandum

TO: Norfolk City Council

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FROM: Bryan Pennington, Director of Intergovernmental Relations / Legislative Liaison

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COPIES TO: Constitutional Officers, Council Appointees, City Manager, and Assistant City Mangers

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SUBJECT: 2012 General Assembly Activity Report # 1

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DATE: January 20, 2012

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Virginia's November '11 elections resulted in a 67-32 Republican majority in the House of Delegates and a 20-20 split in the Virginia Senate with Lt. Governor Bill Bolling holding the tie-breaking vote on most issues. There are 22 freshman legislators this Session. The 2012 Virginia General Assembly Session convened on Wednesday, January 11<sup>th</sup> for a 60 day long legislative session to consider more than 3,000 legislative bills to change current state law and decide upon the Governor McDonnell's \$85 Billion 2013-2014 Introduced Biennium Budget.

During Session the Administration will provide the City Council with a weekly General Assembly Activity Report (Activity Report) on specific legislative bills, reform initiatives, and budget amendment before the General Assembly that are of specific interest to the City. Considering that more than 3,000 legislative bills are being considered by the General Assembly, the Administration's weekly Activity Reports to Council are not intended to be a comprehensive reporting of all Session activity. Rather, the Administration is attempting to identify for Council the most relevant legislative bills and budget amendments with the most significant potential impacts to the City.

For each legislative bill or budget amendment identified in the weekly Activity Reports, the Administration will provide a brief synopsis of the potential impact to the City if the bill were passed. A preliminary position of support or opposition will also be advanced by the Administration for each bill or budget amendment discussed in the weekly Activity Report. Any preliminary position of support or opposition can be changed by Council at anytime. For your convenience each bill in the Activity Report contains a hyperlink, that when clicked, will take you directly to the Legislative Information System page that contains the history of legislative action and the text of the bill or resolution.

### **Update on Norfolk's Request for the Commonwealth to Commission a Sea Level Rise Study**

At the request of City Council, Delegates Stolle and Lewis have introduced a study resolution, House Joint Resolution 50 (HJ 50), requesting the Virginia Institute of Marine Science (VIMS) to study strategies for adaptation to relative sea-level rise in Tidewater Virginia localities. HJ 50 has been referred to the House Rules Committee. Also at the request of City Council, Senators Northam and Wagner have introduced a companion study resolution to HJ 50, Senate Joint Resolution 76 (SJ 76). SJ 76 has been referred to the Senate Rules Committee.

The City hosted a coordination and strategy meeting with all Patrons, VIMS, and Kemper Consulting on Monday (1/16) to discuss City's campaign to get a sea level rise study commissioned by the Commonwealth. A plan of action has been formulated; however there is still significant resistance to the HJ 50/SJ 76 in the General Assembly. The resistance primarily stems from opposition to adding additional studies and the costs associated with them.

Both HJ 50 and SJ 76 have been referred to each chamber's Rules Committee. The Administration will offer Council regular weekly updates on the City's request.

**Link to HJ 50:** <http://lis.virginia.gov/cgi-bin/legp604.exe?121+sum+HJ50>

**Link to SJ 76:** <http://lis.virginia.gov/cgi-bin/legp604.exe?121+sum+SJ76>

### **Update on Governor McDonnell's Taskforce on Local Government Mandate Review**

In September 2011, Governor McDonnell announced the creation of the Governor's Task Force for Local Government Mandate Review. The five-member Task Force is a result of legislation introduced during the 2011 General Assembly Session by Senator Steve Newman (R-Bedford County) to review state mandates imposed on localities and to recommend temporary suspension or permanent repeal of such mandates as appropriate.

In addition to the legislative proposals, Governor McDonnell is recommending \$10 million in his Fiscal Year 2013 budget and \$15 million in Fiscal Year 2014 to help offset previous reductions in aid to localities. The governor has also issued Executive Amendment 28 to designate a portion of any unappropriated balance to provide assistance to offset local Line of Duty Act costs.

Legislation representing recommendations of Task Force:

#### Judiciary

- Remove ability for a Circuit Court to mandate localities to construct a new courthouse

#### Community Service Boards

- Remove mandate that CSB contracts be for a maximum of one year and allows localities to contract with CSBs for more than a one-year term

#### Education

- Remove mandate that proceeds from education surplus property go to capital improvements
- Clarify that state law does not mandate that notices be mailed to every parent on per pupil educational costs
- Remove mandates for various local education advisory committees
- Remove mandate for annual report on remediation programs
- Remove mandate for civics trainings for teachers
- Remove mandate that libraries send Internet policies to the Librarian of Virginia (the requirement that libraries continue to have policies that prohibit access to inappropriate Internet materials will remain)
- Remove mandate that local school boards must apply for a waiver from the state to start school before Labor Day
- The administration will also request that the Department of Education identify burdensome or unnecessary state statutory and federal data collection and reporting requirements and submit recommendations to the governor and General Assembly on ones to eliminate or consolidate with a goal of reducing reporting requirements by 15 percent

#### Environmental

- Remove mandate for state inspections of erosion and sediment control programs where localities have inspections

#### FOIA & Public Notices

- Eliminate mandates to publish RFPs in newspapers
- Increase FOIA response times

#### Procurement

- Remove mandates that prevent localities from creating their own procurement guidelines
- Raise the threshold for mandatory competitive negotiation of professional services contracted by localities
- Eliminate mandate for pre-sale requirements of local surplus property
- Eliminate mandate for localities to give first priority for vending contracts to the Department of Blind and Visually Impaired
- Increase threshold for mandatory due diligence on unclaimed property

#### Land Use and Transportation

- Eliminate mandate that requires Urban Development Area reports documents be submitted to the state Commission on Local Government
- Eliminate the mandate for state approval for leases on airport property
- Eliminate mandate that requires VDOT approval of the location of locally-placed red light camera

Speaking about the task force, Governor McDonnell remarked, "Virginia's local governments deserve accountability and partnership from state government leaders. Burdensome mandates on localities exacerbate the challenge of balancing a budget in these tight fiscal times. On the state level, we don't like it when the federal government hamstring us with mandates and red tape. Unnecessary

or over-reaching mandates are just as detrimental to local governments. This legislation is an important step forward...we will continue to identify unfunded mandates on both the state and local level as well as examples of federal government overreach that prevent Virginia's government from focusing on the core functions of government."

An omnibus bill will be submitted later this week including a number of targeted mandates, and the rest of the mandate relief items will be addressed through administrative actions and executive orders by McDonnell. In addition, McDonnell announced that he was setting a goal for the Department of Education to reduce burdensome and duplicative reporting requirements for local schools by 15 percent.

While the task force postponed addressing some of the most burdensome and expensive mandates that confront local governments, the governor's recommendations are welcome. Governor McDonnell is the first governor in memory to address the consequences of onerous mandates on local governments.

The full report from the Task Force for Local Mandate Review: <http://www.governor.virginia.gov/utility/docs/Interim%20Report%201%2016%2012.pdf>

#### **Update on the State Budget Deliberations**

After taking most of last week to organize committees and subcommittees, the House Appropriations and Senate Finance Committees began this week a frenzied review and analysis of Gov. Bob McDonnell's budget proposals. The process will culminate Feb. 19 with the two committees reporting separate budget amendment packages.

The task is further complicated by a revenue report showing that total general fund revenue collections fell 4.7 percent in December, marking the first time since July 2010 that tax collections last year dropped below monthly collections in 2010. For the first half of FY12, total revenues have grown 4.2 percent, slightly behind the revised annual forecast of 4.6 percent growth. However, the governor's revenue experts believe the December decrease can be attributed to fewer deposit days and other technical issues. They are confident that the January numbers will be much improved.

Another variable this year is the shift in power in the Senate. Although the chamber is comprised of 20 Democrats and 20 Republicans, the Republicans hold control of the Senate with Lt. Gov. Bill Bolling's tie-breaking vote. However, the Virginia Constitution prohibits the lieutenant governor from voting on the state budget and tax legislation. This means at some point in the legislative process, the Republicans will have to obtain the cooperation and votes of Senate Democrats in order to pass the Senate Finance Committee's amendment package in February.

#### **Rebenchmarking policy impact to localities**

School divisions will receive about \$141 million a year less for education as a result of three policy changes included in Gov. Bob McDonnell's proposed biennial budget. The policy changes were made to the formulas the state uses to determine its estimate of what it costs to meet education standards,

a process known as rebenchmarking. The rebenchmarking process takes place every two years. The rebenchmarking policy changes are embedded in the budget bill, and do not require separate legislation. Unfortunately, the proposed rebenchmarking policy changes suggested in the Governor's Introduced Budget would cause Norfolk Public Schools to lose \$3.6 million.

The three policy changes included in the introduced budget 1) base non-personal support costs on FY10 data, instead of applying an inflation factor to bring the data up to FY 2013; 2) eliminate a Northern Virginia cost-of-competing factor for support personnel and 3) increase the amount of federal funds deducted from basic aid.

Non-personal support costs include items such as utilities, health insurance premiums and transportation costs. While inflation for many items has been very low, that is not the case for these three items. The cost of health insurance premiums, for example, rose by about 9 percent in 2011 and 8.5 percent in 2012. The cost of competing factor recognizes the higher price of living, including the higher personnel costs, in Northern Virginia. And the deduction of federal revenues is perhaps the most obtuse to understand. During the federal stimulus program, the state used federal ARRA State Fiscal Stabilization funds to offset declines in state revenue and a decrease in the amount of state funding for basic aid for education. That decrease in state aid in fiscal years 2010 and 2011, which was related to sagging state revenue collections, has now become a policy decrease designed to permanently reduce state funding.

Changes in rebenchmarking do nothing to alter the "bottom line" costs of meeting state standards; the rebenchmarking process manipulates what costs the state will recognize and fund. For these reasons, Norfolk is working in partnership with Virginia First Cities, Virginia Municipal League, and other impacted localities to reverse these policy changes.

Norfolk Public Schools Identified Impacts in the Governor's 2012-2014 Introduced Budget (prepared by NPS and submitted to Norfolk's General Assembly Delegation)

The Introduced biennial budget contains three adjustments to the Basic Aid formula that negatively and, and even more troublesome, permanently affect all school systems in Virginia:

- Stimulus Funding — Two years ago, Virginia included Federal Government State Fiscal Stabilization Funds in the state's Basic Aid. The federal stimulus dollars are gone, and the Governor's proposal does not include replacement funding.
- Sales Tax — We estimate the proposed state budget overstates the amount of Sales Tax revenues NPS would receive by an estimated \$1 million. This amount will be deducted from NPS' Basic Aid, but NPS will not be reimbursed when the Sales Tax revenues do not match projections.
- Inflation — The Governor's proposal does not factor in inflation for non-instructional support costs, which includes items such as electric, heating, fuel for our buses, etc.

Specific Impact to Norfolk Public Schools:

- Faced with a \$20 million gap between revenue and spending next year.
- VRS increase alone imposes \$10.8 million more in spending
- Employee health insurance costs are likely to go up \$1.5 million.
- Textbooks will cost \$1.5 million.

- Nurses \$.5 million.
- Fund Reduction \$1.5 million.

Programs slated for reduction (\*above the required SOQ) and/or elimination:

- Gifted\*
- Preschool\*
- Special Education\*
- Specialty Programs in our high schools such as medical program whereby students partner and work alongside professionals from EVMS; technical engineering program, the arts program, the International Baccalaureate program (IB), and Leadership (STEM) program.
- Middle School programs such as robotics, young scholars, international studies, and more.

Additional items under evaluation:

- Increasing walking zones to realize transportation savings.
- Outsourcing custodial services, communications, and print services.
- Further consolidating/closing of schools.

Previous Norfolk Public Schools Actions to Address State Funding Reductions:

- Cut \$50 million in the past two years.
- Eliminated more than 500 positions, including 268 teaching positions over the past two years.
- Increased class sizes.
- Closed two elementary schools and one middle school.
- Reduced media assistants, teacher assistants, and career technical education positions.
- Implemented hiring freeze, except for critical positions.
- Eliminated elementary school literacy specialists, instructional technology specialists, and more.
- Eliminated tuition reimbursement benefit.
- Eliminated tuition assistance for enrichment programs.
- Delayed school building repair and maintenance which now occurs only on an emergency basis.
- Provided no pay increases now going into the 5th year.

### **Update on BPOL Legislation**

[HB 10 \(Cole\)](#) and [HB 24 \(Cole\)](#) were introduced by Delegate Mark Cole. HB 10 would restrain localities from increasing BPOL taxes above the rates imposed for the 2011 license year, while HB 24 would require that the BPOL tax be imposed on Virginia taxable income of a business for any locality that did not impose a BPOL tax in license year 2011 and subsequently elects to impose a BPOL tax. City Council incorporated a legislative position of opposition with current efforts to modify current BPOL authority until a funding source to supplant lost funding has been identified. Norfolk's FY 11 BPOL revenue collection was \$26 million.

### Bill permits localities to satisfy legal notice requirements by posting to website

A House bill would allow localities to meet legal notice requirements by posting such notices on their websites. If enacted, [HB 222 \(Head\)](#) could save local governments the significant cost of placing such notices in local newspapers. The bill faces stiff opposition from the Virginia Press Association. Newspapers derive significant revenue by publishing these paid legal notices. The bill will be heard in the Civil Law Subcommittee of the House Courts of Justice Committee. Council incorporated a legislative position of support in its 2012 Legislative Priorities Package. Norfolk is registered as supportive of HB 222.

### Bill requires local VRS employees to pay member contributions

Both Plan 1 and Plan 2 employees would have to pay the required 5 percent member retirement contribution under [SB 497 \(Watkins\)](#). State employees hired after July 1, 2012 would have to pay the 5 percent contribution immediately. Employees hired before that date would be required to pay 1 percent of the contribution each year until they were paying the full 5 percent in 2016. Employers, however, would have the authority to elect to have employees pay any whole percentage, up to the 5 percent, before that date. There is no required salary increase.

### Update on the Eminent Domain Constitutional Amendment

A number of prominent business groups have realized that the proposed constitutional amendment dealing with eminent domain will have an enormous negative effect on the building industry and the long-term economic health of Virginia.

The list of associations, chambers of commerce and other pro-business groups opposed to the wording of the proposed amendment includes the Home Builders Association of Virginia, the Virginia Association of Realtors and the Northern Virginia Business Industry Association. They agree with VML that the wording of the amendment - designed to protect personal property rights - needs to be reworked.

[HJ 3 \(Bell\)](#) and [SJ 3 \(Obenshain\)](#) are identical to last year's HJ 693. The legislation must be passed with the exact wording as last year in order for the constitutional amendment to be placed on the ballot in November. If passed, the legislation will prove costly to taxpayers and stifle economic development. It would benefit selected business owners at the expense of residents, since residents would have to pay, through higher taxes, the substantial costs of "lost profits" and "lost access," two new rights created by the amendment.

The business groups recognize the substantial unintended consequences of the proposed amendment, which include jeopardizing major transportation projects, stripping the General Assembly of its ability to control what constitutes a public use and unnecessarily driving up the cost of crucial economic development projects to a point where they become prohibitively expensive.

The following group of business organizations sent a letter to the members of the General Assembly today opposing the passage of the proposed constitutional amendment:

- American Council of Engineering Companies of Virginia (ACEC-VA)
- Apartment and Office Building Association of Metropolitan Washington
- CenturyLink
- Community Planning Partners
- Greater Richmond Association for Commercial Real Estate
- Hampton Roads Association for Commercial Real Estate
- Home Builders Association of Virginia
- NAIOP Northern Virginia
- Northern Virginia Building Industry Association (NVBIA)
- Northern Virginia Chamber Partnership (*includes the Dulles Regional, Greater Reston and Loudoun County chambers of commerce*)
- Northern Virginia Transportation Alliance
- Old Dominion Highway Contractors Association
- Portsmouth Partnership
- Prince William Chamber of Commerce
- The Virginia Society - American Institute of Architects (VSAIA)
- Virginia Association for Commercial Real Estate
- Virginia Association of Realtors
- Virginia Beach Vision
- Virginia Society of Professional Engineers (VSPE)
- Virginia Telephone Industry Association (VTIA)
- Virginia Transportation Construction Alliance

Norfolk City Council incorporated a legislative position of opposition in its 2012 General Assembly Legislative Priorities Package and is registered as opposed to an Eminent Domain Constitutional Amendment. Norfolk continues to work diligently with Kemper Consulting and a coalition of opponents to defeat its passage.

Additional bills and budget amendments may be added in the weeks ahead as proposals are being finalized by Legislative Services or amended in Committees. During the General Assembly session, please feel free to contact the Bryan Pennington for any questions or concerns at [bryan.pennington@norfolk.gov](mailto:bryan.pennington@norfolk.gov) or by cell phone at 757-274-7120.

2012 General Assembly Legislative Calendar

Date	Events and activities for the 2012 Session
February 9th	VML / VACO Legislative Day in Richmond
February 14th	Cross-over day. Each house completes work on its own legislation
February 19th	Each house must complete work on its budget bill & revenue bills
February 29 <sup>th</sup>	Last day for each chamber to act on the Budget/Revenue Bills; appointment of Budget Conferees
March 10th	General Assembly Session Adjourns (Sine Die)
April 18th	Veto / Reconvened Session

Here are Norfolk General Assembly Delegation's Richmond phone numbers:

Norfolk Senators	Richmond Office #	Norfolk Delegates	Richmond Office #
Senator Y. Miller	804-698-7505	Delegate Alexander	804-698-1089
Senator Northam	804-698-7506	Delegate A. Howell	804-698-1090
Senator F. Wagner	804-698-7507	Delegate James	804-698-1080
		Delegate Joannou	804-698-1079
		Delegate L. Lewis	804-698-1000
		Delegate Stolle	804-698-1083

You can watch the Virginia House of Delegates live on the floor at this link:

[http://virginia-house.granicus.com/ViewPublisher.php?view\\_id=3](http://virginia-house.granicus.com/ViewPublisher.php?view_id=3)

You can view the Virginia Senate Chamber live on the floor at this link:

[http://virginia-senate.granicus.com/ViewPublisher.php?view\\_id=3](http://virginia-senate.granicus.com/ViewPublisher.php?view_id=3)