

# **2002 LEGISLATIVE PROGRAM PRIORITIES, POSITIONS AND PROPOSALS**

(presented in alphabetical order)

## **2002 PRIORITIES** (in alphabetical order)

- **Adequate Public Facilities Ordinance**
- **Equal taxing authority for counties, cities and towns**
- **Funding of critical local transportation and education infrastructure needs**
- **Protection of local land use authority**
- **Reversal of “Dillon Rule” interpretation**
- **State and local tax structure modernization**
- **Tree preservation and open space conservation**

## **CITIZEN INTERESTS**

**VIRGINIA FREEDOM OF INFORMATION ACT.** Support assurance of open government and citizen access to government, its administration and operations. (Continued from 1999)

*Rationale: Supports an open governmental process with access by citizens to all aspects of its operation except for those areas expressly exempt.*

## **COMMUNITY ASSOCIATIONS**

**COMMERCIAL VEHICLES IN NEIGHBORHOODS.** Support amendment of *Virginia Code 46.2-1224* to clarify the definitions of commercial vehicles subject to local prohibition of parking on public streets in residential neighborhoods. (Continued from 1998)

**ASSOCIATION REGISTRATION FEE.** Encourage legislation that abolishes the mandated Annual Report and annual \$25 registration fee to the Virginia Real Estate Board. (Continued from 1997)

*Rationale: Records indicate that this burden on homeowner associations (HOAs) has served no meaningful purpose. A large majority of HOAs is not aware of the requirement and thus do not comply.*

**OFFICERS, DIRECTORS AND TRUSTEES.** Strongly oppose legislation that imposes unreasonable limitations on volunteer directors or trustees of homeowner associations or that imposes state authority upon associations other than that imposed by state corporation law. (Continued from 2001)

*Rationale: Legislation was introduced in the 2000 General Assembly which, if passed, would have placed unreasonable legal burdens on volunteer directors and trustees of homeowner associations.*

**WORKER'S COMPENSATION.** Support legislation to amend the Worker's Compensation Act and the *Virginia Code* to provide an exclusion for uncompensated volunteer officers and directors and committee chairs and any other pertinent activity of uncompensated 501(c)(4) civic volunteers from the definition of employee under *Virginia Code sec. 65.2-101* and any other Code section determined pertinent. (Continued)

## **EDUCATION**

**FUNDING FOR HIGHER EDUCATION.** Support efforts to provide adequate and equitable funding for all state institutions of higher education during a period of projected increases in graduate and undergraduate students. In addition, fund local institutions such as NVCC and George Mason University at a level equivalent to that for other state institutions. (Revised 2002)

*Rationale: Access to higher education is essential for economic development, preparing a skilled work force, and the continuing education needed for global competition in an information society. GMU and NVCC--which impact significantly the economic, educational, and cultural vitality of Northern Virginia—should be funded at a level equivalent to similar state institutions. For example, state data indicate that GMU is funded at a level that is \$20M less than other doctoral-degree granting, research institutions in Virginia. In addition, state failure to fund capital improvements for the three GMU campuses will inhibit needed growth.*

### **FUNDING FOR K-12.**

- a) Support changes in the funding formula to reflect realistic costs for meeting the Standards of Quality (SOQ), the Standards of Learning (SOL), and the Standards for Accreditation (SOA).
- b) Support legislation for the use of Virginia's unallocated Tobacco Master Settlement Agreement Fund to be expressly used for state school capital construction and renovation of elementary, secondary and high schools with such funds to be distributed to local school districts on the basis of average daily membership.
- c) Support legislation requiring full state funding of state mandates. (Revised 2002)

*Rationale: The SOQ funding is deficient because (1) it fails to recognize many teaching personnel employed by school divisions, such as elementary art, music and physical education teachers, reading specialists, elementary guidance counselors, and special education aides; and (2) it uses a weighted measure which depresses salary calculations below what 75 percent of Virginia's teachers are paid. The most recent JLARC study documenting these problems and others related to unfunded mandates imposed by the SOLs and SOAs has been embargoed until after the election.*

**STATE SUPPORT FOR SCHOOL CONSTRUCTION.** Virginia should increase its insignificant support for school construction, renovation, and debt service or allow localities to

approve alternative sources of funding such as impact fees in addition to land proffers or increases in sales tax after approval by referendum.

*Rationale: Virginia ranks near the bottom of states in support for school capital improvements although mandated and incentive programs require additional space or renovations, i.e., special education, reduced class size, ESL services, alternative programs for disruptive students, and applications of instructional technology.*

**(NEW) REFORM OF SOLs AND SOAs.** Continue revisions of the state accountability system to ensure that high stakes decisions for students and schools are made on the basis of tests with predictive validity, reasonable passing scores, and teachers' professional judgement. (2002)

*Rationale: Although SOL test scores have risen as a result of curriculum alignment, familiarity with the tests, and intensive remediation efforts, there is the likelihood that a large percentage of students will fail to graduate in 2004, and their schools will lose state accreditation in 2007. Most of these students and schools will be in poor and minority communities. Such results will punish these schools and communities without eliminating the causes of failure, and will doom the standards movement, which has the potential to strengthen education at every level.*

**VALUE ENGINEERING.** Support amending the *Code of Virginia* to require use of value engineering on all public education facility projects subject to the existing minimum expenditure level. (Continued from 2001)

*Rationale: Education facilities are the only segment of State construction that does not adhere to this proven quality control and money-saving method of construction. In 2000 the General Assembly passed legislation "encouraging" schools to utilize value engineering whereas such states as Washington have been so pleased with the effectiveness of value engineering that it elevated its use to a requirement in state law in 1999.*

## **ENVIRONMENT**

### **CHESAPEAKE BAY PRESERVATION ACT.**

- (a) Oppose any legislation that weakens the Act. (Continued)
- (b) Support an amendment to the Act to require that localities provide adequate public notice (including notification to adjacent and downstream property owners) of any proposed waiver of requirements. (Continued)

**EASEMENTS FOR UTILITIES.** Support legislation that would require new or replaced utility lines (subsurface and aerial) to be located in commonly shared easements and to be balanced in consideration of both aesthetic and economic impacts, with siting approved in consultation with local officials. (Continued from 1999)

**LAND CONSERVATION.** Support establishment of annual dedicated funding of \$50 million, without jeopardizing funding for education and transportation, for acquisition of land and conservation easements to be used as open space, such as natural areas, watersheds, farmland, forests, parks, and historic sites. (Continued from 2000)

*Rationale: Virginia is the **only** state on the East Coast without dedicated funding for acquisition of open space. The FY 2001biennium budget included only \$2.6 million for this purpose. From 1987 to 1997, Virginia lost nearly 450,000 acres of prime farmland, about 5% of its total. Between 1977 and 1992, Virginia lost an average of 26,000 acres of forested lands annually. Sixty-one percent of the identified 691 environmentally sensitive natural areas in Virginia are unprotected, and 42 percent of Virginia's wetlands have been lost. Between 1992 and 1999, Virginia ranked last in overall public land expenditures in the Chesapeake Bay watershed (\$53.8 million in Virginia, \$357.0 million in Maryland.)*

**PETROLEUM TANK FARMS AND PIPELINES.** Support the recommendations in the Governor's Advisory Commission Report (December 18, 1992) including relocation of the Pickett Road Tank Farm and legislative initiatives such as state and local authority for additional safety requirements for bulk petroleum storage; increased state authority to regulate intrastate pipeline safety; and strengthening, codification, and enabling state and/or local agencies' enforcement power of nuisance laws. (Continued)

**POLLUTION PREVENTION.** Support legislation applying non-point source pollution control requirements to agriculture, transportation, and storm water management (*Virginia Code sec. 10.1-10.4*). (Continued)

**STREAM AND GROUNDWATER PROTECTION.** Support legislation requiring the state to incorporate pollution prevention requirements, erosion and sedimentation controls and storm water management facilities in state projects and programs. (Continued with expansion)

**PRESERVATION OF TREES.** Support amendments to the *Virginia Code Section 15.1-691* to authorize Fairfax County to strengthen its tree preservation ordinance to protect and preserve tree cover during the land development process. (Continued)

**SOLID WASTE.** Support federal legislation that would allow states and localities to place restrictions on imported solid waste. (Continued)

**STORMWATER MANAGEMENT.** Support legislation to amend *Virginia Code 9-145.11 to 9-145.15* that would require a locality to locate and construct regional stormwater management ponds and facilities in such a way that environmental corridors, stream valleys and other affected lands are protected. (Continued)

**UNDERGROUND UTILITIES.** Support legislation to allow and encourage financial incentives for utility companies to transfer aerial utility lines to underground facilities.

*Rationale: This would reduce the number of power and other utility outages created by storms breaking overhead utility lines and would improve the appearance of our communities.*

## HUMAN SERVICES

**BLOCK GRANT FUNDING.** Support legislation increase state funding which will enable the Commonwealth to draw down federal funding available through block grants and incentive grants to combat poverty and to improve the lives of disadvantaged children and their families.

*Rationale: The Commonwealth of Virginia has underfunded social services, such as child care subsidies for the working poor and medical insurance for children in low-income families. The budget impasse for FY 2002 and a weakening economy have exacerbated these problems, especially in areas with a high cost of living. When Virginia forgoes federal funding for these areas, the immediate effect is denial of affordable day care and health care for children, which will be costly both in the short and long term.*

**FUNDING FOR CHILD CARE.** Support legislation that would require state child care subsidies to be based on realistic market rates and would define the working poor both as families who have transitioned from direct assistance programs and as those whose incomes fall below 200 percent of the poverty level.

*Rationale: The reimbursement of child care providers for low income families, increased in FY 2002 for the first time since 1997, is based on an outdated and flawed market survey, with the result that the increase in funding is half of what is required to maintain the current levels of service. Furthermore, in Virginia, the current definition of income eligibility for subsidized child care is 185% of the poverty level, or \$2,721.00 per month for a family of four.*

**MEDICAID AND STATE FUNDING FOR CERTAIN CSB SERVICES.** Support increased state funding for mental health, alcohol and drug services provided by the Community Services Board (CSB). (Continued from 1999)

*Rationale: The Community Services Board has increasing responsibilities because of the growing population in need of services and continuing deinstitutionalization, which causes even more people in need of these community services. State funding has not kept pace with these needs.*

## LAND USE

**ADEQUATE PUBLIC FACILITIES ORDINANCE.** Support legislation to enable Fairfax County to adopt an Adequate Public Facilities Ordinance to assure an orderly and coordinated land development and supportive infrastructure program, including transportation and schools. Oppose any effort to add language obligating local governments to provide such facilities within a restrictive time frame. (Continued)

**ARCHITECTURAL STANDARDS.** Support legislation to enable Fairfax County to consider architectural standards as part of development proposals. (Continued from 2001)

*Rationale: Counties are authorized to have Architectural Review Boards for consideration of architectural features in historic districts only. This position supports the NVRC position.*

**FAIRFAX AFFORDABLE DWELLING UNIT ORDINANCE.** Support repeal of exemption of four-story elevator buildings and condominiums from the Affordable Dwelling Unit provisions of the *Virginia Code*. (Continued)

**GEOGRAPHICAL INFORMATION SYSTEM (GIS).** Support continued funding to complete implementation of a statewide GIS network, to include geographic information on such elements as political boundaries, transportation, public safety, soils, water systems, fuel pipelines and topography. (Continued with expansion)

**IMPACT FEES.** Support amendments to existing legislation that would authorize Fairfax County to enact an ordinance allowing imposition of development impact fees without jeopardizing the voluntary proffer system. (Continued)

*Rationale: The current legislation authorizing use of impact fees by Fairfax County will expire on July 1, 2003, if not utilized by that date. The proffer system does not offset the total impact of new development on supporting infrastructure, especially schools and transportation. The authorized impact fee can be used only for road improvements necessitated by the new development. Such impacts could affect road improvements not directly adjacent to the development, which are subject to proffers.*

**LAND USE AUTHORITY.** Oppose any diminution of local land use authority, either by further limiting the scope of local regulatory authority or by creating new and more elaborate land use regulatory structures. (Continued from 1999)

*Rationale: Land use authority should remain with the local jurisdictions. At the same time, there should be regional consideration of land use plans and issues.*

**PRIVATE PROPERTY RIGHTS.** Support the existing legal process that reviews protection of private property rights on a "case by case" basis. (Continued)

**PURCHASE OF DEVELOPMENT RIGHTS.** Support establishment of a state Revolving Fund for the acquisition, application of protective easements, and resale of historic properties, environmentally significant areas and natural open spaces. (Continued from 2000)

*Rationale: This would ensure protection of these properties without requiring them to be owned and maintained by the public sector over the long term.*

**TRANSFERABLE DEVELOPMENT RIGHTS.** Support legislation that would authorize Fairfax County to enact an ordinance allowing the transfer of development rights, provided that the development rights sold can never be reinstated. (Continued)

## **LOCAL GOVERNMENTAL POWERS**

**DILLON RULE.** Support modification of the “Dillon Rule” to grant to local jurisdictions those governing powers not expressly reserved to the Commonwealth or the federal government. (Continued; revised 2002)

## **NORTHERN VIRGINIA REGIONAL ISSUES**

**REGIONAL PLANNING.** Support legislation to strengthen regional planning and cooperation through Regional Commissions by amending *Virginia Code 15.2, Chapter 42*, to delete the exclusion of planning districts which have multi-state councils of government. (Continued from 1998)

## **PUBLIC SAFETY**

**ASSAULT WEAPONS.** Support ban on sale of assault weapons in Virginia. (Continued)

**DANGEROUS WEAPONS.** Support ban on dangerous weapons in or upon public parks and County-owned or leased facilities or properties. (Continued from 2000)

**DRUNK DRIVING PENALTIES.** Support stronger penalties for DUI habitual offenders. (Continued from 1999)

**FIREARMS.** Support increased penalties for illegal gun sales and for gun sales to minors. (Continued)

**GAME WARDEN SAFETY.** Support legislation that would permit state game wardens to administer tests for evidence of alcohol and illegal drugs, and would permit imposition of increased penalties for the discharge of a firearm by a person who is under the influence of alcohol or illegal drugs. (Continued)

**(NEW) RECKLESS DRIVING.** Support legislation to increase the penalties for reckless, improper or distracted driving (*Code of Virginia, Section 46.2-852*). (2002)

## **TAXATION AND FINANCE**

**BUSINESS, PROFESSIONAL AND OCCUPATIONAL LICENSE (BPOL) TAX.** Ensure that any state or local legislation that might eliminate exemptions to the BPOL tax does not remove the current exemptions for non-profit organizations. (Continued from 1998)

**LOCAL INCOME TAX.** Support rescission of the current state legislation authorizing a local income tax for transportation purposes only. (Continued from 1998)

*Rationale: Enacted in 1991, the legislation authorizing a local income tax could be implemented through referendum for transportation purposes only. The legislation dictates specific wording for the referendum ballot, such as “income tax up to one (1) percent,” which was found objectionable by citizens and local government. The legislation also requires that the tax not supplant current investment in transportation projects but supplement those funds.*

**LOCAL POWERS.** Support state legislation to grant counties the same taxing authority as cities and towns. (Continued from 1998)

*Rationale: Currently cities and towns can increase sales and use tax on certain products and services without conducting a voter referendum, as must be done by counties before taking such action. This legislation would enable counties to increase taxes on cigarettes, transient occupancy (hotels and motels), food and beverage (restaurants), and admissions without referendum.*

**LOCAL SHARE OF STATE TAX REVENUES.** Support the enactment of legislation to revise the state and local tax structure in Virginia to return 10 percent of state income tax revenue to local governments for their unrestricted use. (1999; revised 2001 and 2002)

*Rationale: Until such time as the General Assembly revises the taxation structure in the Commonwealth to ensure fairness to local governments, one avenue for localities to receive revenues through other than real and personal property taxes is through a share of the state income tax.*

**PUBLIC REVENUES FOR PROFESSIONAL SPORTS.** Support repeal of the legislation creating the Virginia Baseball Stadium Authority (VBSA). Alternatively, support amendment to repeal the reference in the VBSA Act to Planning District 8 so that property within the entire Commonwealth may be considered as a stadium site. In any event, oppose the use of government assets and revenues, including lottery receipts, to finance professional sports facilities, including land and infrastructure, or team acquisitions. (Continued)

**(NEW) SALES TAX REFERENDUM.** Support legislation that would allow citizens of Fairfax County to decide, through referendum, whether to increase the sales tax by one cent, with the proceeds to be used for targeted local transportation projects vital to relieve traffic congestion and for critical capital improvements for the public school system. (2002)

*Rationale: The estimated shortfall in the 2020 Northern Virginia Transportation is \$15 billion for the coming twenty-year period, resulting in a need for an additional \$750 million per year, which cannot be expected to be funded by VDOT. The public schools are experiencing dramatic student growth of 3,000-4,000 students per year and its older facilities are in need of renovation, rewiring and updating. Both transportation and education infrastructure are in need of supplemental funding.*

**STATE AND LOCAL TAX POLICIES.** Support initiation of a comprehensive restructuring and modernization of the Commonwealth’s state and local tax policies. (Continued from 1999)



**STATE MANDATES.** Support full funding by the State of all State mandates. (Continued from 1999)

## **TELECOMMUNICATIONS**

**TELECOMMUNICATIONS FACILITIES.** Ensure that any legislation protects the zoning powers of local government, ensures the public's right to be heard on proposed facilities regardless of whether the land is publicly or privately owned, protects the environment and communities, and restricts VDOT's ability to allow construction of telecommunications facilities without prior approval of the affected locality's land use and/or zoning authority. (Continued)

## **TRANSPORTATION**

**FUNDING FORMULA.** Support state and local legislative actions to assure increased state transportation funds for Northern Virginia in general and to Fairfax County in particular. (Continued)

**METRO FUNDING.** Support an increase in the state's share of funding for Metro capital and operating costs. (Continued from 2001)

*Rationale: The state of Maryland pays the full cost of the Metro system in Maryland whereas Virginia pays only a small share. There is an additional 2-cent gasoline tax in Northern Virginia, the proceeds of which are dedicated to Metro funding.*

**PLAN FUNDING.** Support legislative action at the federal, state and local levels to obtain the necessary funding from a variety of sources to allow for implementation of currently adopted transportation plans. (Continued)

*Rationale: Since the shortfall in funding to implement the Northern Virginia 2020 Transportation Plan is an estimated \$15 billion, it will require funding from multiple sources to implement that Plan. An increase in the sale tax alone would not meet this need. The 2001 Alternative Transportation and Land Use Activity Strategies Study suggests the following potential funding strategies for Northern Virginia: split-rate tax districts; tax increment financing; distance-based fees; regional funding authority; priority funding areas; congestion pricing; parking pricing; proffers; and community development authorities. The Metropolitan Washington Transportation Planning Board has recommended several potential sources: increased fuel tax; tolls on new highways; increased sales tax; 1.0 percent income tax; and a payroll tax.*

**PLANNING.** Support legislation to ensure consistency and conformity among local, MPO and state short- and long-range land use and transportation plans. (Continued)

**SYNCHRONIZED SIGNALIZATION.** Ensure that VDOT completes the implementation of the traffic light synchronization system in Northern Virginia in a timely manner. (Continued from 2001)

*Rationale: Action is delinquent with high cost overruns. Implementation would help alleviate heavy congestion and improve air quality.*

**TEA 21 AND CLEAN AIR ACT AMENDMENTS (CAAA).** Support implementation strategies to assure efficient and cost effective compliance with all mandated Transportation Efficiency Act (TEA 21) and CAAA requirements; assure adoption of all necessary actions to prevent potential loss of federal transportation funds, including support for Air Quality/Congestion Management Plans developed by the Metropolitan Planning Organization (MPO), i.e., the Metropolitan Washington Council of Governments. (Continued)

**TRUCK SAFETY.** Support increased state funding to support better enforcement of truck safety laws, including inspections. (Continued from 1999)