

The Federation

(Established 1940)

2013 LEGISLATIVE PROGRAM

Priorities in alphabetical order

1. **Citizens Association Services:** Establishing Statutory Late Fee Authority
2. **Education:** Early Education & Public School Calendar
3. **Energy:** Mandatory Renewable Portfolio Standard
4. **Environment:** Maintain the Existing Ban on Uranium Mining
4. **Human Services:** Health Care Exchanges
5. **Transportation:** Metro & Transportation Funding
6. **Public Safety:** Increased Accessibility

Approved by the Federation Membership on Thursday, October 18, 2012

Information and updates on the Fairfax County Federation of Citizens Associations' Legislative Program is available online at www.fairfaxfederation.org/legislation1.htm.

1. CONSERVATION

OPEN SPACE LAND CONSERVATION: Establish an annually dedicated funding of \$50 million to the General Fund Budget to establish and maintain open and recreational space for natural resources without jeopardizing funding of education and transportation, to include acquisition of land and conservation easements to be used as open space, such as natural areas, watersheds, farmland, forests, parks, and historic sites. (2000, 2011, 2013)

Rationale: *Virginia is the only state on the East Coast without dedicated funding for acquisition of open space. While the Federation continues to support action in the General Assembly, local initiatives are also needed. Open and recreational space in Fairfax County should be continually increased until the goal of 20% is met. (2013)*

2. COMMUNITY ASSOCIATIONS AND SERVICES

a. LIEN PRIORITY FOR COMMUNITY ASSOCIATION ASSESSMENTS: Amend the Condominium Act and Property Owners' Association Act to assign associations' property liens a higher priority when court-ordered or private sale of property allows money to be collected from homeowners who are delinquent in paying their assessments and penalties. (2013)

Rationale: *Homeowner associations and condominiums are at the end of the disbursement line when it comes to receiving money from a foreclosure or other sale of property. Associations incur legal and other costs to file liens in court, yet recover only a small percentage of the lien's value, if any money at all. Associations and condominiums provide services to all homeowners with the expectation that the assessments will cover the contract fees. Contracted services include property management, trash removal, grounds and street maintenance, pool operation, street maintenance, and repairs to buildings and other property. Payment of these contract costs must continue whether or not certain homeowners pay their assessments. In recent years, one 321-unit HOA had to write off amounts ranging from \$18,000 to \$27,000 (approximately 5 to 7 percent of the annual budgets), after trying diligently to collect them. It is grossly unfair to the homeowners to be unable to collect a larger proportion of these debts for delinquent assessments, penalties, and legal fees. (2013)*

b. ELIMINATE DELAYED PAYMENT TO ASSOCIATIONS FOR DELIVERY OF RESALE PACKET: Restore the previous statutory provision that resale disclosure packet and resale certificate payments be made no later than at the time of delivery. (2012)

Rationale: *We support amending section 55-509.6 of the Virginia Property Owners Act (Fees for resale disclosure packet) and section 55-79.97 of the Virginia Condominium Act (Fees for resale certificate). The amendment would eliminate the mandate (from H.B. 516 of 2008) that payment to Common Interest Community (CIC) Associations for delivering packets to prospective home buyers be delayed until settlement. If settlement does not occur within 90 days H.B. 516 stipulated that the packet cost be assessed against the lot.*

Delayed payments for packets cause financial harm to associations. Associations may wait for months or may never be paid. First, not all prospective buyers that receive packets will ultimately purchase. Second, associations all over the state have a number of homes in foreclosure. In many such cases the Association will likely never collect delinquent assessments from sellers, and will therefore also not be able to collect resale disclosure packet fees. H.B. 516 had a number of good features, but this delayed payment provision is harmful.

We are grateful to the General Assembly for two steps already taken that have provided partial relief. Delayed payment for self-managed associations was eliminated in 2010. The original 90-day period was reduced to 45 days in 2011. Now it is time to reduce the 45 days to zero days through legislation that eliminates altogether the delayed payment provision. (2012)

c. ESTABLISHING STATUTORY LATE FEE AUTHORITY: Authority to establish late fees for regular and special assessments not paid by the due date should be provided for in those statutes governing Virginia common interest communities (CICs). (2013)

Rationale: *The ability to establish and collect late fees for regular assessments and special assessments is critical to the financial health of common interest communities (HOAs, condominium associations, and housing cooperatives). Associations that lack authority to impose a late fee cannot take advantage of an effective assessment collection tool, and those associations cannot recover administrative expenses incurred in the carrying of delinquent assessment accounts. This in turn harms associations' cash flow, threatens their ability to maintain their property and puts an unfair burden on the other owners. Legislation establishing late fee authority would help associations to maintain their property and reduce the burden that delinquent owners place on all other owners. (2013)*

3. EDUCATION

a. EARLY EDUCATION: Support additional state and federal funding for pre-kindergarten education and child care programs to improve school readiness and reduce the costs of remedial education and social services, especially for children from low-income families, without creating an additional unfunded mandate. (2006; amended 2012)

Rationale: *Thirty years of research have demonstrated that every dollar invested in early education for children from low-income families produces \$7 in cost avoidance for remedial and Limited English Proficient (LEP) student instruction, and health and social services. Additional funding would provide training for pre-school programs and daycare providers so that more education and fewer maintenance activities are provided in daycare settings. (2006)*

b. REFORM OF STATE AND FEDERAL ACCOUNTABILITY SYSTEMS: Target access to public school choice and supplemental services to individuals within subgroups that fail to achieve No Child Left Behind (NCLB) benchmarks. (2006; 2009; 2010)

Rationale: *Although SOL test scores have risen as a result of curriculum alignment, familiarity with the tests, and intensive remediation efforts, there is evidence that students and schools in poor and minority communities are less likely to graduate, causing their schools to lose accreditation and federal funding. Such results will punish these students, 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. In addition, the requirements of NCLB for meeting Adequate Yearly Progress (AYP) have created situations where schools that meet Virginia's high standard are subject to federal sanctions, such as loss of funding, because of unreasonable requirements such as standardization testing of students who understand little English or children with severe disabilities. (2009, 2012)*

b. PUBLIC SCHOOL CALENDAR: Enact new legislation permitting local school boards to set the opening day of school in accordance with the consensus of the local community. (2005, 2010)

***Rationale:** The Code of Virginia mandates that schools open after Labor Day and as a result FCPS students have less classroom time before the state requires SOL exams, and Princeton's SAT organization nationally scheduled advanced placement (AP) exams usually taken in early May. Over half of the school divisions received waivers to open as much as three weeks earlier, and yet, FCPS is not allowed to participate. Repeal of the "King's Dominion" law would allow setting the school calendar to allow additional instruction prior to assessments of academic achievement, would permit students taking both high school and college courses to start at the same time as local colleges, and would allow the provision of stronger summer programs for student remediation and professional development. (2009, 2011)*

c. SALARY COMPETING FACTOR: Support FCPS position on supporting use of a cost of competing factor in the Standards of Quality reimbursement formulas in recognition of the higher salaries paid by school boards in identified locations in order to attract and retain skilled teachers and other personnel within its competitive local regional wage market. The Governor introduced budget for FY 2012-2014 to eliminate Cost of Competing for support positions (which includes assistant superintendents and technical, clerical, attendance, health, and technology staff, among others). Although the General Assembly has provided funding for partial restoration, we are urging full funding of this item. (2008, 2013)

***Rationale:** According to FCPS, the State differential covers approximately 740 categories and includes all agencies with State classified employees in Northern Virginia. The instructional rate was last increased in 1996 based on 1995 Joint Legislative Audit and Review Committee report, and the non-instructional rate was last increased in 2004 to reach the rate recommendation made in 1995. (2013)*

4. ENERGY

a. MANDATORY RENEWABLE PORTFOLIO STANDARD: Support enactment of a Mandatory Renewable Portfolio Standard requiring that a minimum percentage be produced from cost-effective, renewable, emission-free sources. (2009; 2011, 2012)

***Rationale:** Under current law, the renewable energy portfolio standard program is a voluntary program to which investor-owned utilities apply to receive certain incentives. Establishing a Mandatory Renewable Portfolio Standard will address culminating environmental issues such as climate change and move the state towards energy independence. Furthermore, renewable sources are clean and getting cheaper while conventional sources may be risky, subject to cost volatility, and finite. (2012)*

b. ENERGY END-USER CONSERVATION AND RENEWABLE ENERGY PRODUCTION: Support legislation that will encourage energy conservation, the use of renewable and distributive energy generation, and the use of refurbished energy-conservation and renewable energy products which have a payback period of five years or less. (2008, 2011)

Rationale: Most energy conservation projects will pay for themselves in less than five years, so providing consumer educational advice and low-cost energy saving equipment such as CFL and LED light bulbs will not only reduce our demand for fossil fuel generated electricity but also save money for Virginia residents. Similarly, encouraging distributive renewable generation will decrease the risk of power disruptions due to natural disasters or malicious activity. In some cases, such as solar water heating, previously installed systems are not functioning, whereas these can be refurbished and energy can be saved. (2013)

c. DEVELOP VIRGINIA'S OFF-SHORE WIND RESOURCES: Support legislation to allow and encourage the development of off-shore wind resources. Legislation is needed to streamline the permitting of off-shore wind farms and on-shore infrastructure. (2012)

Rationale: The development of off-shore wind coupled with the development of on-shore wind resources in the west and other renewable resources will allow the state to be energy independent for the foreseeable future. Up to 20% of the electric energy demands of the state could be met by wind resources just off Virginia's coast. Off-shore wind resources are stable and strong meaning that they can be forecast and used for base load demand projections. Existing ship building resources in the Hampton Roads area could supply off-shore wind platforms for the entire eastern seaboard bringing much-needed jobs to the state that will last for decades. It is estimated that the wind power industry could bring in \$200 million per year to the state. There already is a major electrical grid tie in near the coast at Fentress, Virginia, the best placed grid tie in location in the Mid-Atlantic States. (2013)

d. REPEAL THE TAX CREDITS FOR UTILITIES AND COAL COMPANIES FOR THE EXTRACTION AND CONSUMPTION OF VIRGINIA COAL: Support legislation to repeal the relevant section of the code. (2012)

Rationale: Currently, Virginia's taxpayers directly subsidize coal mining through approximately \$44.5 million in corporate tax breaks. The credit is more closely related to coal production than to employment, such that the credit could rise, even as coal employment goes down. As now configured, the credit is a windfall to the coal industry, providing no support for jobs in a depressed part of Virginia. In particular, the Southwestern region, has important needs in terms of jobs, clean energy and infrastructure, all of which would benefit from the revenue that could be realized by the credit repeal. (2012)

e. PURCHASE OF ENERGY SAVING PRODUCTS: Support legislation to amend the Virginia Public Utilities Act to encourage the purchase and refurbishing of energy saving products by consumers by allowing and encouraging utility companies in Virginia to provide low rates for capital costs for effective purchases of energy saving equipment and to be repaid through utility bills. (2009, 2010)

Rationale: The initial capital costs for energy saving equipment make it difficult for home owners and businesses to make the changes that can decrease energy consumption. (2013)

5. ENVIRONMENT

a. CHESAPEAKE BAY PRESERVATION ACT: Oppose legislation that weakens the Act and support legislation that amends the Clean Water Act to explicitly give the Environmental

Protection Agency (EPA) the authority to regulate non-point-source pollution. (2010, 2012, 2013)

Rationale: *The state has made progress in providing funding in recent years, including deposits to the WQIF of surplus funds in each of the last three years. However, current funding falls short of the \$100 million needed for mandated stormwater improvements, by up to \$18 million. Additionally, there is a projected need of approximately \$300 million over the next several years for wastewater treatment plant upgrades in the Chesapeake Bay watershed, to meet federal Chesapeake Bay requirements. The state must partner with localities in order to meet these federal mandates to ensure the success of this effort. (2013)*

b. CLIMATE CHANGE EFFECTS IN INFRASTRUCTURE PLANNING: Support legislation to direct the Virginia Department of Transportation and other departments responsible for infrastructure maintenance and emergency planning to incorporate climate change effects in planning for infrastructure expected to last over 50 years. (2012, 2013)

Rationale: *Carbon dioxide (CO₂) concentrations in the atmosphere are increasing and it has been known that CO₂ is a greenhouse gas for over 150 years, proven by experiments performed by John Tyndall in the late 1850s. Therefore, regardless of what is causing the increases in CO₂ concentrations more energy will be retained by the atmosphere which will affect the ocean temperatures (causing sea level rises and increased frequency and/or intensity of tropical storms), air temperatures (causing more dangerously hot weather, a greater likelihood of high ground level ozone pollution, lower crop yields and increased likelihood of tropical diseases finding a foothold in the state), and increased water content in the air (causing more droughts and more intense storms). Models that have been very accurate at predicting past weather events, predict that the sea level will rise from two to three feet over the next 100 years. This will mean that much of the roads and coastal infrastructure will be washed away by storms. Increased intensity of storms will also mean that additional reservoirs and levees will be needed. (2012)*

c. MAINTAIN THE EXISTING BAN ON URANIUM MINING IN VIRGINIA. (2012)

Rationale: *Virginia has a nearly 30-year ban on uranium mining. Powerful interests are trying to lift the ban so they may mine and process uranium, starting in Southside Virginia. If the ban were to be lifted, it would have statewide impact, because there are deposits upstream of the Occoquan reservoir, which serves a part of Fairfax County. Drinking water, human health, farmland, property values, wildlife and tourism across Virginia are at risk. A uranium mine would generate toxic, radioactive waste in the form of mine tailings and sludge ponds. Exposure to such wastes have been linked to lung cancer, leukemia, damage to internal organs (notably, the kidneys) and reproductive risks. Virginia has no current regulations governing uranium mining. All other uranium mining in the U.S. is done in dry, sparsely populated regions, but the wet weather possibilities and high population density in Virginia would make this activity an unacceptable risk. There is also an economic risk due to the high volatility of uranium prices, meaning that a failed mine would not leave adequate funding to provide cleanup. (2012)*

d. WHITE TAIL DEER POPULATION CONTROL: Support legislation and measures to more effectively control the White Tailed Deer population in Fairfax County. (2012, 2013)

Rationale: *The current deer population is estimated to range between 25,000 and 40,000 in Fairfax County, which is about 60 and 100 deer per square mile. Deer population can double in a couple of years and the recommended number is at 15 per square mile. In 2009 and 2010, Virginia ranked 5th in the nation for deer-vehicle collisions. One in every 136 Virginia drivers is projected to file insurance claims for comprehensive vehicle damage sustained as a result of a deer-vehicle collision. Deer are the primary host to adult Back-Legged Ticks that cause Lyme disease. Furthermore, a single adult deer consumes 5 to 7 pounds of plant matter in one day or over 1 ton of vegetation in a year. The dense population of people and deer has created a wildlife conflict; this has contributed to the increase in vector-borne diseases (such as Lyme disease) vehicular accidents and destruction of vegetation. (2012, 2013)*

e. ENDOCRINE DISRUPTOR COMPOUNDS, PHARMACEUTICALS, AND HORMONE

WATER POLLUTION: Urge research and ensuing legislation that would mitigate pharmaceutical and endocrine disrupter pollution in Virginia waters. (2008, 2011)

Rationale: *Endocrine disruptor compounds (EDCs) inhibit the regulation of biological processes related to growth, development and reproduction that have impacts on marine life and human health. This is a complex, highly technical, and very important issue that needs immediate attention through research and development of remedies. Pollution from pharmaceuticals is also a problem and may be partially responsible for multi-antibiotic resistant infections. (2013)*

6. GOVERNANCE

a. COMPENSATION: Support legislation to direct local, state and federal governments to assess employee wages and benefits using objective criteria that include comparisons with private sector compensation. (2012)

Rationale: *Objective and well informed comparisons must be made to identify optimal and sustainable compensation practices. (2012)*

b. EARLY VOTING: Support legislation to enable registered voters to vote early in person without providing an excuse or reason for not expecting to be able to vote in person on Election Day, while retaining all present statutory specific reasons enabling a voter to cast an absentee ballot for those persons who vote absentee by mail. (2009, 2012)

Rationale: *Early voting enhances voter participation. (2010)*

c. TWO-YEAR BUDGETING: Support legislation authorizing local governments to adopt biennial (two-year) instead of annual operating budgets. (2005, 2013)

Rationale: *A biennial budget process for localities would mirror the state's two-year budget, afford a longer time frame for financial planning, allow more time for program review and evaluation, and could be less expensive and time consuming than annual budgeting. (2012)*

7. HUMAN SERVICES

a. MEDICAID PROGRAM: Support improvements in the state Medicaid program that increase access to services, particularly preventative services, with the goal of reducing overall health care costs. (2012)

Rationale: The 2010 federal health care reform law contains many new directives for states and employers in providing health care coverage. Virginia's current eligibility requirements are so strict that it ranks at 48th in per capita Medicaid spending. As Virginia begins the implementation of this new law, we urge the state to monitor the potential impacts on localities and that a successful expansion of this service will require close cooperation between the state and Fairfax County. (2012, 2013)

b. VIRGINIA HEALTH CARE EXCHANGES: Support the General Assembly's establishment of a position on the Virginia Health Care Exchange in accordance with the following principles: no one with a financial interest in the insurance industry should be a voting member of the Exchange Board; the Exchange Board should be structured as a quasi-governmental agency; active purchasing is vital so that the Exchange will be able to negotiate the lowest rates and best plans within the market; and the rules and offerings should be structured to prevent adverse selection while maintaining fairness for health care consumers. (2012, 2013)

Rationale: to provide more affordable health care for the citizens of Virginia, in accordance with federal law. (2012, 2013)

c. MINIMUM WAGE: Support legislation to index the minimum wage to the Consumer Price Index. (2007, 2008, 2010, 2013)

Rationale: The federal minimum wage is now \$7.25 an hour. That minimum wage is not adequate in Fairfax County. (2010)

8. LAND USE

LAND USE AUTHORITY: Oppose any diminution of local land use authority. (1999, 2010)

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. (2010)

9. PUBLIC SAFETY

a. INCREASED ACCESSIBILITY: Support legislation authorizing local jurisdictions to require standards and programs that promote recent innovations in accessibility to public and private facilities for persons with disabilities. (2012, 2013)

Rationale: This will enable Fairfax County to support access for persons with disabilities and the rising population of older adults to public and private facilities by utilizing adaptive technologies. Incorporating adaptive technologies in public buildings, housing, transportation and employment will empower persons with disabilities and seniors to remain active and contribute to their communities and retain their independence. (2012, 2013)

10. TAXATION

a. LOCAL SHARE OF STATE PERSONAL INCOME TAX REVENUES: Support a study of the impact on state and local government of legislation that would return a portion of state personal income tax revenue to local governments for their unrestricted use. This could help reduce local government's reliance on real estate taxes. Issues to be investigated include: the financial impact of this change on the State; whether such change would require a personal income tax

increase; whether such change would require a decrease in state aid to Fairfax County; whether such change would require a shift in responsibilities from the State to Fairfax County; and the impact of such change on impact on Fairfax County residents. (1999, 2001, 2002, 2010, 2013)

Rationale: *The Federation has proposed the direct sharing of personal income tax revenues between state and local government since 1999, but there needs to be legislative study first since no one knows the impacts of such a change. (2010, 2013)*

b. FEDERAL AND STATE MANDATES: Full fund or eliminate each of the imposed federal and state mandates on local government. (1999, 2007, 2013)

Rationale: *Mandates force local governments to spend money in ways that may not be in accordance with the desires of the local community. When federal or state government imposes mandates, it should also provide funding. Where funding is not provided, federal or state government should repeal the mandate. (2013)*

c. RENEWABLE ENERGY TAX CREDITS: Support a state tax credit for residences and businesses for new and refurbished renewable energy systems. Consideration should be given to permitting electric power generation companies to fund tax credits as a part of their obligation to reduce consumption of fossil fuels. (2009, 2011, 2013)

Rationale: *Renewable energy tax credits will encourage increased use of renewable energy and reduce the use of fossil fuels. (2009, 2012, 2013)*

11. TRANSPORTATION

a. TRANSPORTATION FUNDING: Support state and local legislations to increase transportation funding for Northern Virginia and to Fairfax County in particular. (2010, 2013)

Rationale: *The General Assembly has not enacted new revenue sources for transportation infrastructure since 2007, and the demand for transportation infrastructure has increased substantially. (2010, 2013)*

b. METRO FUNDING: Support an increase in the federal and state shares of funding for Metro capital and operating costs and a regional dedicated funding source for the Metro system capital, operations and maintenance programs. (2001, 2005)

Rationale: *The State of Maryland pays the full cost of Maryland's share of the Metro system whereas Virginia pays only a small part of Northern Virginia's share. There is an additional two (2) percent gasoline tax in Northern Virginia, the proceeds of which are dedicated to Metro funding. The Washington area is the only major metropolitan region in the country without a dedicated funding source for its Metro system. Portions of the Washington Metro rail system are now more than 40 years old and badly in need of major maintenance. (2009, 2013)*

c. Road-Use Tax: Establish a road-tax to be paid into the Virginia Road Fund which would apply to electric-powered cars and other vehicles that do not use gasoline, diesel, or other fuels that are subject to per-gallon sales tax as well as hybrid-powered vehicles that use less of such fuels than vehicles that are powered solely by such fuels. The legislation should make provision that the amount of road-use tax would be assessed on the basis of the number of annual miles driven; that the tax rate be lower for hybrid vehicles than the rate of electric vehicles; and that

the tax rate of hybrid vehicles reflect the amount of the per-gallon fuel tax that each type of hybrid vehicle pays on average for each mile driven. (2013)

Rationale: The road-use tax is a matter of equal treatment of the types of vehicles that are using Virginia roads and contributing to the normal wear and tear of the roads. Virginia roads are constructed primarily by and maintained by the Virginia Road Fund which is currently funded entirely by the Virginia per-gallon sales tax on gasoline and diesel fuels. Electrical vehicles and hybrid vehicles use the roads; but electrical-powered vehicles do not use such fuels and make no tax contribution to the Virginia Road Fund; and hybrid vehicles use relatively little of such fuels and make only a small contribution to the Virginia Road Fund. (2013)

12. CITIZENS' INTERESTS

a. RESTORATION OF RIGHTS: Amend Virginia's Constitution to automatically restore civil rights – including voting rights – for most or all felons once they have completed their sentences. Maintain the current requirements to apply for restoration of gun rights. (2011)

Rationale: *Virginia is one of two states that do not automatically restore the civil rights of felons once they have completed their sentences. Individuals with felony convictions are permanently barred from voting, even after fully completing their sentences under Virginia's Constitution. Although voting rights may be restored only by an act of the Governor, this act takes a very long time and contributes to the disenfranchisement of a significant number of the population. While the process has recently been simplified and accelerated, the decision-making process still needs to be made consistent and transparent. All other states, except for Virginia and Kentucky, automatically restore voting rights for most or all felons once they have completed their sentences. Approximately 300,000 Virginia citizens cannot vote due to a felony conviction.*

Virginia requires restoration of rights, followed by expungement, before the right to own a firearm is restored. Support for automatic restoration of rights is not to be interpreted to include automatic restoration of gun rights for felons upon completion of their sentences. (2011, 2012)

b. PETROLEUM TANK FARMS: Support the City of Fairfax and the County of Fairfax in the phased relocation of the Pickett Road Tank Farm so as to minimize exposure to hazards in residential neighborhoods.

Also support legislation establishing the maximum number of tanker-truck trips to and from tank farms located in or near densely populated areas; providing 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. (2008, 2009, 2010, 2013)

Rationale: *The tank farm is located in a completely developed area with 400 tanker trucks a day going to and from the facility. Oil spill incidents, tanker truck accidents and the addition of ethanol trucking have brought renewed urgency to this issue of safety and environmental degradation. The increased use of ethanol in gasoline mixtures requires truck transport of ethanol to the tank farm. (2009, 2010)*