

**JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION
OF THE VIRGINIA GENERAL ASSEMBLY**

1993 UPDATE:

**Catalog of State and
Federal Mandates on
Local Governments**

A Report in a Series on State/Local Relations

**REPORT OF THE
JOINT LEGISLATIVE
AUDIT AND REVIEW COMMISSION**

1993 Update:

**Catalog of State
and Federal Mandates
on Local Governments**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



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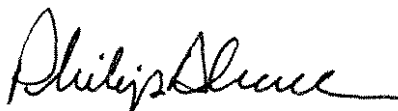
Preface

In 1992, the Joint Legislative Audit and Review Commission (JLARC) prepared the *Catalog of State and Federal Mandates on Local Governments* as a companion report to the study, *Intergovernmental Mandates and Financial Aid to Local Governments*. This catalog has been frequently requested by localities, State agencies, and other users. It is currently out of print, but requests for the report continue. Rather than reprint the 1992 Catalog, JLARC staff updated and revised it.

Local government operations are significantly affected by State and federal involvement through mandates. This report identifies 391 State and federal mandates on local governments, 29 of which have been implemented since 1991. Areas most affected by mandates are health and human services, education, and public works. It is important to note that all mandates do not affect local governments to the same extent. Some may have very limited fiscal impact, while others may be quite burdensome to local governments.

Legislators and agency officials need up-to-date information on the content and extensiveness of State and federal requirements in order to assess the ongoing impact of mandates on local governments. Toward that end, the 1993 General Assembly directed the Commission on Local Government to annually prepare a catalog of all mandates on local governments.

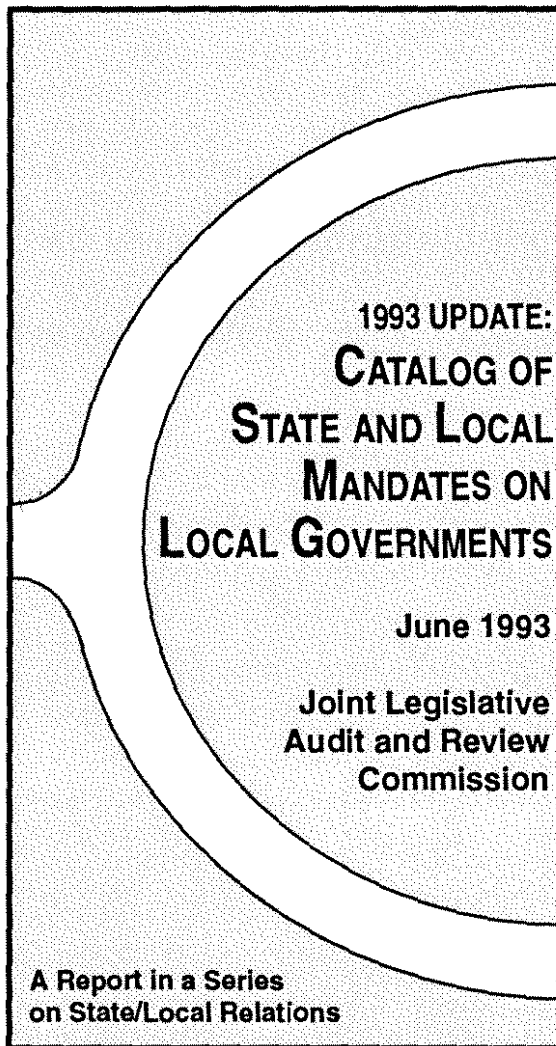
On behalf of the JLARC staff, I would like to thank the State agencies and local governments from which we collected information for their cooperation and assistance during this study.



Philip A. Leone
Director

June 9, 1993

JLARC Report Summary



State and federal mandates significantly affect local government operations. These requirements influence the organization, staffing levels, administrative procedures, and budgets of all local governments. While mandates are generally considered to be a legitimate means for implementing essential policies and maintaining standard levels of services, they are often viewed as burdensome by local officials.

The impact of State and federal mandates has been a continuing concern to

State and local officials. Accordingly, the Joint Legislative Audit and Review Commission (JLARC) has prepared several studies focusing on mandates and related issues over the past decade. In particular, the 1992 *Catalog of State and Federal Mandates on Local Governments* inventoried requirements imposed on local governments. Its purpose was to provide legislators and State agency officials with information on the number and extent of the mandates on local governments. In order to assess the ongoing impact of mandates, JLARC staff have updated and revised this catalog.

Mandates on Local Governments are Extensive and Increase Yearly

JLARC staff found that State and federal mandates on local governments are extensive, affecting most areas of local government activity. As of April 1993, 391 State and federal mandates on local governments had been identified. This is an increase of 29 new mandates since JLARC staff surveyed State agencies in July 1991. Most of the mandates are in the areas of health and human services, education, and public works.

New Mandates by Area

| <u>Area</u> | <u>New Mandates</u> |
|-------------------------------|---------------------|
| Public Works | 10 |
| Education | 8 |
| Administration of Government | 6 |
| Health and Human Services | 4 |
| Community Development | 3 |
| Public Safety | 2 |
| Parks | 1 |
| <u>Total New Mandates: 29</u> | |

There are many mandates imposed jointly by the State and federal governments. However, the majority of current mandates are imposed directly by the State. Most of the mandates are required regardless of whether a locality receives any funding for the mandated program. However, some State aid is typically provided for most major mandates.

The General Assembly has attempted to ease the burden of mandates on local governments. During the 1993 Session, the

General Assembly acted on several recommendations from the 1992 JLARC study.

Future Editions of the Mandates Catalog

The 1993 General Assembly directed the Commission on Local Government (COLG) to prepare and annually update a catalog of State and federal mandates on local governments. The first COLG catalog will be published prior to the 1995 Session.

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Chapter I: Introduction

State and federal constitutional, statutory, and administrative mandates fundamentally affect Virginia's local governments. These requirements influence the organization, staffing levels, service offerings, administrative procedures, budgets, and spending of all local governments. In some cases, mandates can require that local governments redirect their resources to meet State and federal rather than local objectives. The impact of State and federal mandates is therefore a continuing concern to local officials.

Over the past decade, the Joint Legislative Audit and Review Commission (JLARC) has prepared several studies of mandates on local governments and related issues. This *Catalog of State and Federal Mandates on Local Governments* is a continuation of that effort to keep legislators and State agency officials aware of the extent of State and federal mandating.

PREVIOUS JLARC STUDIES

The General Assembly has focused considerable attention on improving State/local relations. This is evidenced in part by a series of mandated JLARC studies concentrating on the State's relationships with local governments. In particular, the two studies described below have addressed the issues surrounding State and federal mandates.

State Mandates on Local Governments and Local Financial Resources (1983)

In 1983, JLARC conducted a study of State mandates on local governments and local financial conditions. This study addressed three primary objectives: (1) to identify State mandates and the extent to which they impose a burden on local governments; (2) to examine the adequacy of the amount and type of State financial assistance to localities; and (3) to determine whether local governments have sufficient local financial resources to fund the public services they must provide.

The study found that, in general, local officials did not disagree with the substance of State mandates, but were more concerned with the levels of State funding to meet those mandates. JLARC staff determined that State funding of mandates was substantial and that it kept pace with historical State commitments in all areas except the educational Standards of Quality, categorical aid for special education, and auxiliary grants. In these areas, State aid was found to be inconsistent with levels of State control. As an appendix to this study, JLARC staff prepared an inventory of State mandates on local governments.

Intergovernmental Mandates and Financial Aid to Local Governments (1992)

To address the continuing concerns of local officials, the General Assembly in 1990 directed JLARC to conduct a follow-up to the 1983 study (HJR 156 and SJR 45). This study focused on the major issues surrounding intergovernmental mandates and financial assistance, including the extent of local service responsibilities, the availability of local financial resources, and the adequacy of State financial and technical assistance to local governments.

Many of the concerns raised by local officials during this study were similar to the issues discussed during the 1983 study. Those concerns included a lack of flexibility in the implementation of mandates, inadequate funding for mandates, unequal taxing authority for cities and counties, and lack of adequate taxing authority for all localities. However, JLARC staff found that overall the State has played a stable role in providing revenues to local governments. Conversely, the report noted that there had been a dramatic decline in federal revenues, despite the significant new federal mandates imposed on localities.

The report presented alternative methods to reduce the adverse impact of mandates in the short term, including: agency reviews of mandates to identify those that could be relaxed or eliminated, temporary suspension of selected mandates, and pilot-testing mandates prior to statewide implementation. In addition, JLARC recommended that a catalog of mandates be maintained and periodically updated to provide legislators with comprehensive, up-to-date information about mandates on local governments.

The General Assembly acted on several of these recommendations during the 1993 Session. HB 2146 (Appendix A) directed the Commission on Local Government to prepare and annually update a catalog of State and federal mandates on local governments. The 1993 General Assembly also passed legislation which requires all State agencies to review mandates imposed on local governments to determine if any mandates may be altered or eliminated. State agencies must also consider whether regulations which impose mandates on local governments should be tried first on a limited basis in order to determine the effectiveness or impact of the proposed regulations. In addition, the General Assembly extended the expiration of the Governor's ability to suspend mandates in order to alleviate fiscal hardship.

Building on the mandates inventory from the 1983 report, JLARC staff prepared the 1992 *Catalog of State and Federal Mandates on Local Governments* as a separate companion report to this study. Unlike the 1983 inventory, the 1992 catalog identifies federal as well as State mandates imposed on local governments.

CURRENT REVIEW OF MANDATES ON LOCAL GOVERNMENTS

The significant number of requests from State and local officials for copies of the 1992 catalog prompted JLARC staff, with Commission approval, to prepare an updated

catalog, which is provided in Chapter II of this document. The updated catalog contains State and federal mandates on local governments as of April 1993. In addition, it provides brief discussions of the fiscal impact of new mandates.

Mandate Defined

In identifying mandates on local governments, JLARC staff defined a mandate as a constitutional, statutory, or administrative action that places a requirement on local governments. This definition includes three types of mandates:

- compulsory orders,
- conditions of financial aid, and
- regulation of optional activities.

Compulsory orders are requirements with which localities must comply regardless of aid, such as the Chesapeake Bay Preservation Act. Conditions of financial aid are requirements that arise as a condition of receiving financial aid. For example, to qualify for urban assistance payments, cities and towns (with populations greater than 3,500) that maintain their own roads must meet Department of Transportation standards for road maintenance. Regulation of optional activities includes activities that are not mandated but are subject to State and federal regulations if performed. For example, if localities choose to operate airports or air navigation facilities, they must maintain those facilities consistent with Department of Aviation standards.

Mandates on Local Governments are Extensive and Increase Yearly

State and federal mandates on local governments are extensive, affecting most areas of local government activity. As of April 1993, 391 State and federal mandates on local governments have been identified (Table 1). The impact of these mandates varies from minimal reporting requirements to significant service requirements.

A majority of the mandates on local governments (56 percent) are required regardless of whether a locality receives any funding for the mandated program. The other mandates are required either as a condition of financial assistance or of a locality choosing to perform a non-mandated activity. Though optional, these mandates affect most localities, since they pertain to necessary local functions such as the construction and operation of water and wastewater facilities and the construction and maintenance of streets.

The State imposes most of the current mandates on local governments (Table 2). Of the 391 mandates identified, 290 are solely State directives. Forty-five requirements are imposed solely by the federal government. The remaining 56 mandates have both State and federal origins.

Table 1

Mandates by Functional Area and by Type of Mandate, 1993

| <u>Functional Area</u> | <u>Compulsory Order</u> | <u>Condition of Aid</u> | <u>Regulation of Optional Activity</u> | <u>Total</u> |
|--|-----------------------------|-----------------------------|--|--------------|
| Health and Human Services | 70 | 8 | 16 | 94 |
| Education | 61 | 11 | 4 | 76 |
| Public Works | 19 | 26 | 27 | 72 |
| Administration of Government | 39 | 3 | 6 | 48 |
| Public Safety | 18 | 16 | 13 | 47 |
| Community Development | 9 | 19 | 9 | 37 |
| Parks, Recreation, and Libraries | 2 | 7 | 5 | 14 |
| Administration of the Judicial System | <u>3</u> | <u>0</u> | <u>0</u> | <u>3</u> |
| TOTAL | 220 | 90 | 81 | 391 |

Sources: JLARC staff surveys of State agencies, 1991 and 1993; and JLARC staff reviews of the *Code of Virginia* and the Appropriation Act.

There has been an increase of 29 new mandates since JLARC staff surveyed State agencies in July 1991 (Figure 1). (Several of these new mandates will not become effective until 1994 or later.) In addition to new mandates, some mandates have been added to this catalog that were implemented prior to 1991. These mandates had previously not been reported by State agencies.

Catalog Compilation

Mandates were identified through mail surveys of State and local governments and through a review of the *Code of Virginia* and the Appropriation Act. On the State agency survey, agencies were requested to list each State and federal mandate on local governments that they monitored or administered. The survey also requested them to specify the type of each mandate and its date of implementation. JLARC staff received responses from all of the agencies surveyed. Forty-nine of the agencies reported administering mandates on localities. This process identified the majority of the mandates included in the catalog.

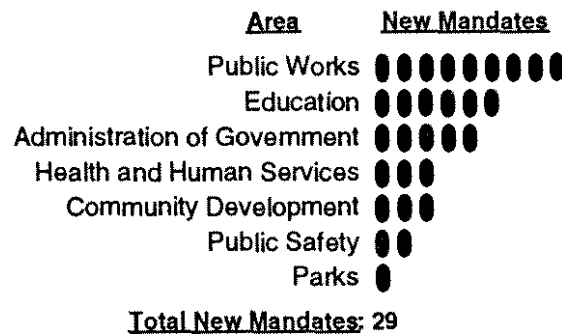
Table 2

Sources of Mandates on Local Governments

| <u>Functional Area</u> | <u>Federal Government</u> | <u>State Government</u> | <u>Federal and State Governments</u> | <u>Total</u> |
|---------------------------------------|---------------------------|-------------------------|--------------------------------------|--------------|
| Health and Human Services | 9 | 60 | 25 | 94 |
| Education | 5 | 64 | 7 | 76 |
| Public Works | 11 | 51 | 10 | 72 |
| Administration of Government | 5 | 39 | 4 | 48 |
| Public Safety | 3 | 36 | 8 | 47 |
| Community Development | 12 | 24 | 1 | 37 |
| Parks, Recreation, and Libraries | 0 | 13 | 1 | 14 |
| Administration of the Judicial System | <u>0</u> | <u>3</u> | <u>0</u> | <u>3</u> |
| TOTAL | 45 | 290 | 56 | 391 |

Sources: JLARC staff survey of State agencies, 1993; and JLARC staff review of the *Code of Virginia* and the Appropriation Act.

Figure 1

New Mandates by Area

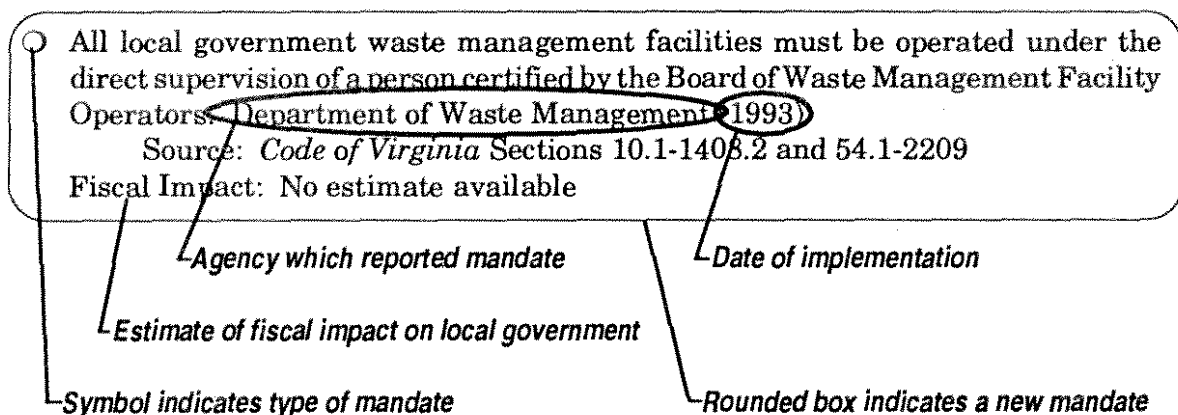
Source: JLARC staff survey of State agencies, 1993; and JLARC staff review of the *Code of Virginia* and the Appropriation Act.

As the State body of statute law, the *Code of Virginia* also served as a primary source for the mandates inventory. By reviewing each section of the *Code*, JLARC staff identified mandates imposed by the Legislature and their implementation dates.

Finally, through the 1991 local government survey, local officials identified federally mandated programs imposed on them without State involvement. JLARC staff received survey responses from 108 of the 136 cities and counties. This information was supplemented with federal mandate information from the National Conference of State Legislatures and the *Code of Federal Regulations*.

Catalog Organization

Chapter I has provided a brief overview of the mandates study, including the research activities conducted in developing this catalog. Chapter II identifies the specific State and federal requirements imposed on local governments. The following key explains the information presented for each mandate:



The following symbols are used to indicate the different types of mandates:

- compulsory orders;
- ⊗ conditions of State and/or federal financial aid; and
- State and/or federal regulation of optional activities.

The abbreviations used are: USC (*United States Code*) and CFR (*Code of Federal Regulations*).

In addition, an index that cross-references the State agencies with the mandates they reported is included at the end of the report as Appendix B.

Chapter II: Mandates on Local Governments

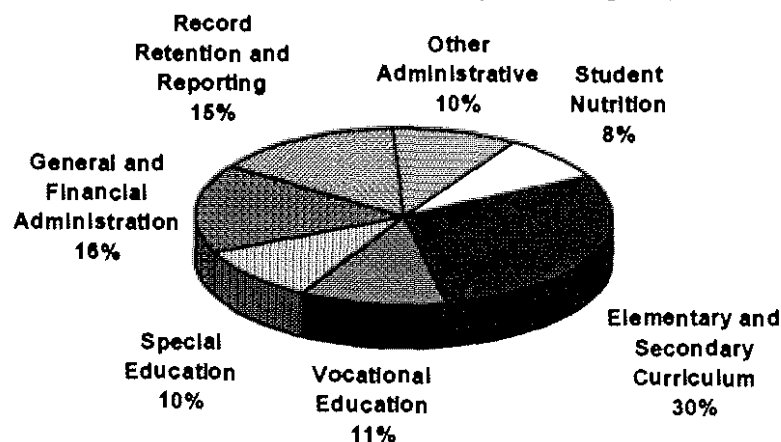
This chapter identifies the State and federal mandates on local governments. The mandates are divided into eight sections by functional area: education; health and human services; public safety; public works; community development; parks, recreation, and libraries; administration of the judicial system; and administration of government. Each section is prefaced by a brief description of the mandates and a discussion of the fiscal impact of recently enacted mandates on local governments.

EDUCATION

Public education is an area of substantial State and federal involvement. The State's Standards of Quality (SOQ) dominate elementary and secondary education requirements. The SOQ represent the minimum requirements for a high quality program in all school divisions across the State. JLARC staff identified 76 education mandates (Figure 2). Of these, six mandates have been implemented since 1991.

Figure 2

Proportion of Education Mandates on Local Governments by Category, 1993



Source: JLARC staff survey of State agencies, 1993; and JLARC staff review of the *Code of Virginia* and the Appropriation Act.

Two of the new mandates address school bus standards. Specifically, school buses manufactured in 1994 (and after) must conform to minimum performance requirements for wheelchair restraint devices. The fiscal impact of this State mandate varies among localities depending upon the number of wheelchair positions in each bus. Seating capacity will be lost, possibly resulting in additional vehicles being necessary.

Another new mandate requires all public schools to be tested for radon by 1994. Radon tests must be conducted pursuant to Environmental Protection Agency procedures for radon measurements in schools. In addition, the division superintendent must report the results to the Department of Health. The Commission on Local Government estimated the local fiscal impact of the introduced version of this legislation. The introduced version of this legislation included the requirements that the tests be conducted every four years and that copies of the radon test results be distributed to all parents of students attending the tested schools. These requirements were deleted from the final text of the mandate. The fiscal impact estimates for 18 selected local governments varied from \$500 every four years for the City of Emporia to \$70,000 every four years for the County of Henrico. The estimates were based on the cost to conduct radon tests and to mail the results to all parents. The actual fiscal impact to localities is expected to be less since the final version of the legislation has less stringent requirements than the introduced version.

In addition to adding new mandates, the Board of Education and the General Assembly also periodically revise the SOQ. While the exact language of many of the SOQ changes, often the general intent of the requirements remains the same. Therefore, in identifying the implementation dates for these mandates, JLARC staff used the year in which the requirement was first enacted. For example, since 1988, local school boards have been required to develop and implement programs of prevention, intervention, or remediation for students who are educationally at-risk. The 1992 revision of the SOQ changed the language of this mandate but generally kept the requirement intact. Therefore, JLARC staff identified the actual implementation date as 1988, instead of 1992.

However, the 1992 revision to the SOQ did create one new mandate. Local school boards must now implement programs in kindergarten through third grade that "emphasize developmentally appropriate learning to enhance success." The Department of Education has not estimated the fiscal impact of this new requirement.

The following agencies monitor mandates in the education area: the Department of Education, the Virginia Community College System, and the Department for the Visually Handicapped.

Administrative Requirements

Personnel Administration

- There shall be a superintendent of schools for each school division. The superintendent shall be appointed by the school board of the school division from the entire list of eligible candidates certified by the State Board of Education. Each school division

| | | |
|---------------------|---|---|
| ● Compulsory Orders | ⊕ Conditions of State & Federal Financial Aid | ○ State & Federal Regulation of Optional Activities |
|---------------------|---|---|

shall provide for the necessary traveling and office expenses of the superintendent.
Department of Education (1980)

Source: *Code of Virginia* § 22.1-58 et seq.

- School boards must have grievance procedures covering all school board employees except superintendents and probationary employees (probationary period not to exceed 18 months). Department of Education (1973)

Source: *Code of Virginia* § 22.1-79

- A school board, upon recommendation of the division superintendent may employ principals and assistant principals. Persons employed in these positions shall hold licenses as prescribed by the Board of Education. Department of Education (1973)

Source: *Code of Virginia* § 22.1-293

- Every school board shall require on its application for employment certification that the applicant has not been convicted for any offense involving child abuse or molestation. Department of Education (1985)

Source: *Code of Virginia* § 22.1-296.1

- The school boards of the counties of Chesterfield, Cumberland, Fairfax, Fluvanna, Hanover, Henrico, Louisa, Orange, Prince William, Rockbridge, and Spotsylvania and the cities of Alexandria, Fredericksburg, Hopewell, Manassas, Radford, and Richmond shall require any individual who accepts a position of employment to submit to fingerprinting and to provide personal descriptive information along with the fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation to check for a criminal history record. Department of Education (1988)

Source: *Code of Virginia* § 22.1-296.2

- School divisions may only employ as teachers those persons who hold certificates or provisional certificates issued by the State. Department of Education (Early 1900s)

Source: *Code of Virginia* § 22.1-299

- School divisions are required to have all teachers enrolled in the Virginia Retirement System. Department of Education (1952)

Source: *Code of Virginia* §§ 51.1-132 through 51.1-135

- ⊕ In order to receive particular funding, local school divisions must comply with teacher salary requirements. (1992)

Source: Item 134 of the 1992 Appropriation Act

- ⊕ School divisions that employ itinerant teachers for the blind must agree to: hire a qualified teacher for the visually impaired, share information with Department for the Visually Handicapped, be responsible for equipment that is on loan from the

Department for the Visually Handicapped, and require their itinerant teachers to attend training programs that are sponsored by the Department for the Visually Handicapped. Department for the Visually Handicapped (1986)

Source: Contract between the Department for the Visually Handicapped and school divisions employing itinerant teachers for the blind

- Local school boards shall employ a minimum number of licensed, full-time equivalent instructional personnel for each 1,000 students in average daily membership as set forth in the Appropriations Act. Department of Education (1972)

Source: *Code of Virginia* § 22.1-253.13:1

- Local school boards shall assign licensed instructional personnel in a manner that produces divisionwide ratios of students in average daily membership to full-time equivalent teaching positions, excluding special education teachers, principals, assistant principals, counselors, and librarians, that are not greater than the following ratios: 25/1 in kindergarten classes with no class being larger than 30 students, 24/1 in grade one with no class being larger than 30 students, 25/1 in grades two and three with no class being larger than thirty students, 25/1 in grades four through six with no class being larger than 35 students, and 24/1 in English classes in grades six through twelve. In addition, instructional personnel shall be assigned by each school board in a manner that produces schoolwide ratios of students in average daily membership to full-time equivalent teaching positions of 25/1 in middle schools and high schools. Department of Education (1972)

Source: *Code of Virginia* § 22.1-253.13:1

- Each local school board shall provide those support services that are necessary for the efficient and cost-effective operation and maintenance of its public support, pupil personnel services, student attendance and health, operation and maintenance of the buildings, and management information systems. Department of Education (1988)

Source: *Code of Virginia* § 22.1-253.13:2

- Each local school board shall require its members to participate annually in in-service programs on personnel, curriculum, and current issues in education as part of their service on the local board and require the division superintendent to participate annually in professional development activities at the local, State, or national levels. Department of Education (1988)

Source: *Code of Virginia* § 22.1-253.13:5

- Each local school board shall provide a program of professional development, as part of the license process, to assist teachers and principals in acquiring the skills needed to work with gifted students and handicapped students and to increase student achievement and a program of professional development for administrative person-

nel designed to increase proficiency in instructional leadership and management. Department of Education (1988)

Source: *Code of Virginia* § 22.1-253.13:5

- Each local school board shall provide teachers and principals with periodic in-service training in preparing tests and other assessment measures and methods for assessing the progress of individual students, including Standards of Learning assessment materials or other criterion referenced tests that match locally developed objectives. Department of Education (1988)

Source: *Code of Virginia* § 22.1-253.13:3

Record Retention and Reporting

- Each local education agency must adopt a written policy and establish procedures for the management of students' scholastic records consistent with minimum State and federal requirements. Department of Education (1988)

Source: Family Educational Rights and Privacy Act (34 CFR 99); *Code of Virginia* §§ 2.1-340 through 2.1-346.1; and Department of Education regulation VR 270-01-0014

- Each local school board shall revise, extend, and adopt biennially a divisionwide six-year improvement plan that shall be developed with staff and community involvement. Each public school shall prepare a biennial plan that shall be given consideration by its school board in the development of the divisionwide six-year improvement plan. Department of Education (1972)

Source: *Code of Virginia* § 22.1-253.13:6

- Unless for good cause shown an extension of time not to exceed fifteen days is granted by the superintendent of public instruction, each school board shall, on or before August 15 of each year, issue an annual report to the State covering the work of the schools for the prior year, on forms supplied by the State. Department of Education (prior to 1950)

Source: *Code of Virginia* § 22.1-81

- Each school division shall keep an accurate record of each handicapped child attending a school in the division, who is not a resident of the school division. Each school division shall certify its records to the State following the end of the school year. Department of Education (1988)

Source: *Code of Virginia* § 22.1-101.1

- Local education agencies must certify on Department of Education forms that students wishing to get their drivers license either are attending school or have been counseled by the school system on the importance of school attendance. Department of Education (1990)

Source: *Code of Virginia* §§ 22.1-254 and 46.2-334

- School divisions must verify that students have been immunized before admittance into the public school system. Certain medical and religious exemptions are allowed. Department of Education (prior to 1973)
Source: *Code of Virginia* § 22.1-270 et seq.
- Each school board must adopt guidelines for school attendance for children with human immunodeficiency virus. Department of Education (1990)
Source: *Code of Virginia* § 22.1-271.3
- School divisions must conduct a census of their school-age population once every three years. Department of Education (prior to 1950)
Source: *Code of Virginia* § 22.1-281 et seq.
- School divisions must maintain student scholastic records in conformity with established guidelines regarding confidentiality, storage, maintenance, and disposal. Department of Education (prior to 1950)
Source: *Code of Virginia* § 22.1-287 et seq.

General and Financial Administration

- School divisions must provide free education to each person of school age and localities must appropriate funds for this purpose. Department of Education (prior to 1950)
Source: *Code of Virginia* §§ 22.1-2, 22.1-3, and 22.1-94
- School divisions must provide free textbooks to pupils whose parents are financially unable to afford the cost of books. Effective July 1, 1994, school divisions must provide free textbooks for all public school children. This modification is contingent upon the appropriation of the State's share of the costs. Department of Education (prior to 1950)
Source: *Code of Virginia* § 22.1-251
- School divisions must use textbooks approved by the State or selected by the school division in accordance with State regulations. Department of Education (1972)
Source: *Code of Virginia* § 22.1-238
- ⊕ In order for a school division to receive its full allocation of State aid, all schools within the division must maintain a length of term that does not fall below 180 days or 990 hours in any year. Department of Education (prior to 1950)
Source: *Code of Virginia* § 22.1-98
- Each local school board shall maintain and follow an up-to-date policy manual. Each local school board shall ensure that the policy manual includes certain policies that shall be developed giving consideration to the views of teachers, parents, and other

concerned citizens. Department of Education (1972)

Source: *Code of Virginia* § 22.1-253.13:7

- Local school boards must establish acceptance criteria consistent with relevant federal and State law and regulation for admitting students who are not of school age or are not domiciled in the school division. (1993)

Source: Virginia Acts of Assembly Chapter 293

Fiscal Impact: No estimate available

- Each local school board shall maintain schools that meet the standards of accreditation as prescribed by the Board of Education. Standards include such requirements as elementary guidance counselors, class size maximums, graduation requirements, and maximum class periods per teacher. Department of Education (1972)

Source: *Code of Virginia* § 22.1-253.13:3; and Department of Education regulation VR 270-01-0012

- Any vacation school or summer camp operated by a school board or boards or any other local agency, department, or board shall be available to persons of school age within the applicable jurisdiction on a nondiscriminatory basis regardless of whether a person attends public or private schools. Department of Education (1973)

Source: *Code of Virginia* § 22.1-211

- ⊕ The governing bodies of the political subdivisions within a community college service region must provide sufficient land, both for the initial establishment of a community college and for future expansion, and all improvements thereon (i.e. roads, exterior lighting, parking lots, landscaping, and all utilities to the point of connection to the buildings). Virginia Community College System (1988)

Source: Section 4-4.01.j-2 of the 1991 Appropriation Act; Virginia Community College System regulation VR 650-01-10

- ⊕ Local education agencies that receive funds from Chapter 2 of Title I of the Elementary and Secondary Education Act of 1965 as amended by PL 100-297 must follow certain federal administrative regulations. Department of Education (1965)

Source: Elementary and Secondary Education Act of 1965, Title I, Chapter 2; and the Federal Register of April 19, 1990.

School Construction and Maintenance

- School divisions must comply with minimum standards for school facilities on new construction and renovation of existing facilities. Department of Education (prior to 1950)

Source: *Code of Virginia* § 22.1-138

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| ● Compulsory Orders | ⊕ Conditions of State & Federal Financial Aid | ○ State & Federal Regulation of Optional Activities |
|---------------------|---|---|

- All school construction or renovation plans must be submitted to the State. Department of Education (prior to 1950)
Source: *Code of Virginia* § 22.1-140

- All public schools must be tested for radon by July 1, 1994. Radon tests shall be conducted pursuant to Environmental Protection Agency procedures for radon measurements in schools. The division superintendent shall report test results to the Department of Health. Each school is to maintain files on its radon test results and make these files available for review. (1993)

Source: Virginia Acts of Assembly Chapter 765

Fiscal Impact: Estimates vary among localities. For example, the estimated fiscal impact for certain localities range from \$500 every four years to \$70,000 every four years. These estimates are based on the cost to conduct radon tests and to mail the results to all parents. The fiscal impact analysis was based on the original version of the mandate, which was more stringent than the version ultimately implemented. (Commission on Local Government)

Student Transportation

- School buses manufactured on or after January 17, 1994 must conform to minimum performance requirements for wheelchair securement/occupant restraint devices. Department of Education (1994)

Source: 49 CFR Part 571; Article VIII Sections 4 and 5 of the *Virginia Constitution*, *Code of Virginia* § 22.1-176D; and Department of Education "Regulations Governing Pupil Transportation Including Minimum Standards for School Buses in Virginia" Section 5.4

Fiscal Impact: The fiscal impact varies among localities depending upon the number of wheelchair positions in each bus. Seating capacity will be lost, possibly resulting in additional vehicles being necessary. (Department of Education)

- Local governments must comply with the amended Federal Motor Vehicle Safety Standards for school buses. Department of Education (1994)

Source: 49 CFR 571; Article VIII, Sections 4 and 5 of the *Virginia Constitution*; *Code of Virginia* § 22.1-176D; and State Board of Education regulation 5.4

Fiscal Impact: No estimate available

- If transportation of non-handicapped children is provided, school divisions must conform to State and federal regulations regarding equipment, insurance, and

driver qualifications. Department of Education (1928)

Source: *Code of Virginia* § 22.1-176 et seq.

Student Nutrition

- ⊕ Local school divisions that agree to participate in the School Breakfast Program must comply with regulations covering breakfast requirements; determination and service of free, reduced price and paid meals served; financial and resource management; non-profit status; procurement; effective use of commodity foods; record keeping; and sanitation and health standards. Department of Education (1966)

Source: 7 CFR 220 and 245

- ⊕ Local school divisions that agree to participate in the National School Lunch Program must comply with regulations concerning lunch requirements; determination and service of free, reduced price, and paid meals served, financial and resource management; non-profit status; procurement; effective use of commodity foods; record keeping; and sanitation and health standards. Department of Education (1946)

Source: 7 CFR 210 and 245

- ⊕ Local school divisions that agree to participate in the Special Milk Program must comply with regulations covering lunch requirements; determination and service of free and paid milk served; financial aid and resource management; non-profit status; procurement; record keeping; and sanitation and health standards. Department of Education (1946)

Source: 7 CFR 215 and 245

- Local schools must comply with State requirements regulating the sale of food and drink during lunch periods. Department of Education (1972)

Source: State Board of Education regulation

- Upon appropriation and authorization of federal funds for reimbursement, local school boards must establish school breakfast programs by July 1, 1994, in any school in which 25 percent or more of the students participate in the federally funded free or reduced lunch program. Beginning June 30, 1995, the local school boards must annually report on their school breakfast programs to the Department of Education, including the numbers and socioeconomic characteristics of the students participating in the program. (1993)

Source: Virginia Acts of Assembly Chapter 698

Fiscal Impact: No estimate available

Elementary and Secondary Curriculum

General Instruction

- Local school boards shall develop and implement a program of instruction for grades K through 12 which emphasizes reading, writing, speaking, mathematical concepts and computations, and scientific concepts and processes; essential skills and concepts of citizenship, including knowledge of history, economics, government, foreign languages, international cultures, health, environmental issues, and geography necessary for responsible participation in American society and in the international community; fine arts and practical arts; knowledge and skills needed to qualify for further education or employment or, in the case of some handicapped children, to qualify for appropriate training; and development of the ability to apply such skills and knowledge in preparation for eventual employment and lifelong learning. Department of Education (1980)

Source: *Code of Virginia* § 22.1-253.13:1

- Local school boards shall implement programs in grades K through 3 that emphasize developmentally appropriate learning to enhance success. Department of Education (1992)

Source: *Code of Virginia* § 22.1-253.13:1

Fiscal Impact: No estimate available

- Local school boards shall implement programs based on prevention, intervention, or retrieval designed to increase the number of students who earn a high school diploma or general education development certificate. Department of Education (1986)

Source: *Code of Virginia* § 22.1-253.13:1

- Instruction concerning drugs and drug abuse shall be provided by each school division as prescribed by the State. Department of Education (prior to 1950)

Source: *Code of Virginia* § 22.1-206

- School divisions shall emphasize physical and health education throughout their curricula in accordance with State regulations. Department of Education (prior to 1950)

Source: *Code of Virginia* § 22.1-207

- School divisions shall emphasize moral education through lessons given by teachers and imparted by appropriate reading sections. Department of Education (prior to 1950)

Source: *Code of Virginia* § 22.1-208

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- Ⓐ School divisions must comply with the standardized program and regulations established by the Board of Education for driver education programs in order to receive State funds for driver education programs. Department of Education (1962)
Source: *Code of Virginia* § 22.1-205

Special Programs

- Local school boards shall implement early identification of gifted students and enrollment of such students in appropriately differentiated instructional programs. Department of Education (1974)
Source: *Code of Virginia* § 22.1-253.13:1
- Local school boards shall implement educational alternatives for students whose needs are not met in programs prescribed elsewhere in these standards. Such students shall be counted in average daily membership in accordance with the regulations of the Board of Education. Department of Education (1978)
Source: *Code of Virginia* § 22.1-253.13:1
- Local school boards shall develop and implement programs of prevention, intervention, or remediation for students who are educationally at risk including, but not limited to, those whose scores are in the bottom national quartile on Virginia State Assessment Program Tests, or who do not pass the literacy test prescribed by the Board of Education. Department of Education (1988)
Source: *Code of Virginia* § 22.1-253.13:1
- Local school boards shall implement a plan to make achievements for students who are educationally at risk a divisionwide priority that shall include procedures for measuring the progress of such students. Department of Education (1992)
Source: *Code of Virginia* § 22.1-253.13:1
- Local school boards shall implement adult education programs for individuals functioning below the high school completion level. Department of Education (1972)
Source: *Code of Virginia* § 22.1-253.13:1

Career Guidance

- Local school boards shall implement career education programs infused into the K through 12 curricula that promote knowledge of careers and all types of employment opportunities including, but not limited to, apprenticeships, the military, and career education schools, and emphasize the advantages of completing school with marketable skills. Department of Education (1980)
Source: *Code of Virginia* § 22.1-253.13:1

- School divisions shall make employment counseling and placement services available to secondary students at no charge to students. Department of Education (1976)
Source: *Code of Virginia* § 22.1-209
- Each local school board shall provide a program of pupil personnel services for grades K through 12 that shall be designed to aid students in their educational, social, and career development. Department of Education (1986)
Source: *Code of Virginia* § 22.1-253.13:2

Assessment and Testing

- In order to assess the educational progress of students as individuals and as groups, each local school board shall require the administration of criterion referenced tests and teacher made tests as well as the nationally normed test prescribed and provided by the Board including the tests for the Virginia State Assessment Program, the Virginia Literacy Testing Program, and the National Assessment of Educational Progress state by state assessment. Each school board shall analyze and report annually, in compliance with any criteria that may be established by the Board of Education, the results from the Virginia State Assessment Program and the Virginia State Literacy Testing Program to the public. Department of Education (1988)
Source: *Code of Virginia* § 22.1-253.13:3
- Each school board shall award literacy passports to all students, including handicapped students, who achieve passing scores on the literacy tests established by the Board of Education. Department of Education (1988)
Source: *Code of Virginia* § 22.1-253.13:4
- Each school board shall award diplomas to all secondary school students who earn the units of credit prescribed by the Board of Education, pass the prescribed literacy tests, and meet such other requirements as may be prescribed by the local school board and approved by the Board of Education. Department of Education (1981)
Source: *Code of Virginia* § 22.1-253.13:4

Vocational Education

- Local school boards shall implement competency-based vocational education programs, which integrate academic outcomes, career guidance, and job-seeking skills for all secondary students, including those identified as handicapped that reflect employment opportunities, labor market needs, applied basic skills, job-seeking skills, and career guidance. Career guidance shall include employment counseling designed to furnish information on available employment opportunities to all students, including those identified as handicapped, and placement services for

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students exiting school. Each school board shall develop and implement a plan to ensure compliance with the provisions of this subsection. Department of Education (1988)

Source: *Code of Virginia* § 22.1-253.13:1

- Local school boards shall implement academic and vocational preparation for students who plan to continue their education beyond secondary school and who plan to enter employment. Department of Education (1972)

Source: *Code of Virginia* § 22.1-253.13:1

- ⊕ Local school divisions that receive federal funds for vocational education are required to operate their educational programs in a manner that does not deny services or promote discrimination on the basis of race, sex, national origin, or handicap. Department of Education (1973)

Source: 45 CFR 80

- Vocational education programs must be competency-based to ensure that students are prepared to enter employment and continue formal education. The following standards apply: (1) role-relevant competencies are identified and stated; (2) competencies must be specified to students prior to instruction; (3) criterion-referenced measures must be used to evaluate achievement; and (4) a system must exist for documenting the competencies achieved. Department of Education (1987)

Source: State Board of Education regulation VR 270-01-0011, Section 3.3

- Each local education agency must establish a general vocational advisory council to provide advice to the local educational agency (or board) on current job needs and the relevancy of vocational programs offered to assist in the development of the local plan and application. Councils must be composed of representatives from business, industry and labor including representation of both sexes and racial and ethnic minorities. A report must be provided annually to the Department of Education describing activities of the advisory council. Department of Education (1987)

Source: State Board of Education regulation VR 270-01-0011, Section 2.3

- Vocational student organizations must be an integral and active part of each vocational program. All vocational students must be provided opportunities to participate in instructional activities of the organization whether or not dues are paid. Department of Education (1987)

Source: PL 101-392; and State Board of Education regulation VR 270-01-0011, Section 3.7

- ⊕ Local education agencies that receive financial assistance for the operation of vocational education programs must submit a local vocational plan and application for review and approval to the Department of Education. The plan must (1) cover the same time period on the State plan for vocational education; (2) include all

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statements of assurance and meet all necessary conditions prescribed by federal legislation; (3) give consideration to vocational offerings by community colleges, adult education, employment training, proprietary schools and other organizations. Department of Education (1987)

Source: State Board of Education Vocational Education Regulations, Section 2.2

Special Education

- Local school boards shall implement early identification of handicapped students and enrollment of such students in appropriate instructional programs consistent with State and federal law. Department of Education (1972)
Source: *Code of Virginia* § 22.1-253.13:1

- Each school division shall provide special education services to handicapped children, ages two through twenty-one, residing within its jurisdiction, in accordance with State regulations. Department of Education (1974)
Source: Individuals with Disabilities Education Act (20 USC 1400 *et seq.*); Article VIII, Section 1 of the *Virginia Constitution*; *Code of Virginia* § 22.1-213 through 215; and Department of Education regulation VR 270-01-0007

- Each school division shall submit an annual plan for special education for the year following and report indicating the extent to which the plan required by law for the preceding year has been implemented. The plan must be acceptable to the State Board of Education. Department of Education (1974)
Source: 34 CFR 300.180 and *Code of Virginia* § 22.1-215

- Any school division unable to provide free and appropriate public education to a handicapped child and not appropriately available in a State facility, other than Woodrow Wilson Rehabilitation Center, shall place the child in Woodrow Wilson Rehabilitation Center or a nonsectarian private school for the handicapped approved by the Board of Education or such other licensing agency as may be designated by State law. The school division shall pay the reasonable tuition charges for the child, in accordance with State regulations. Department of Education (1974)
Source: *Code of Virginia* § 22.1-218

- School divisions are required to provide free transportation to handicapped children who need it. Transportation should only be provided via specially equipped buses, regular "mainstreamed" buses, exclusive buses or cars/station wagons. Department of Education (1956)
Source: *Code of Virginia* § 22.1-221

- Local education agencies must follow the special education program standards that specify criteria for class size maximums and the operations of programs for students with disabilities including self-contained, resource, and departmentalized models. In addition, criteria for special education teacher endorsements and educational interpreters for students with hearing impairments are provided. Department of Education (1977)

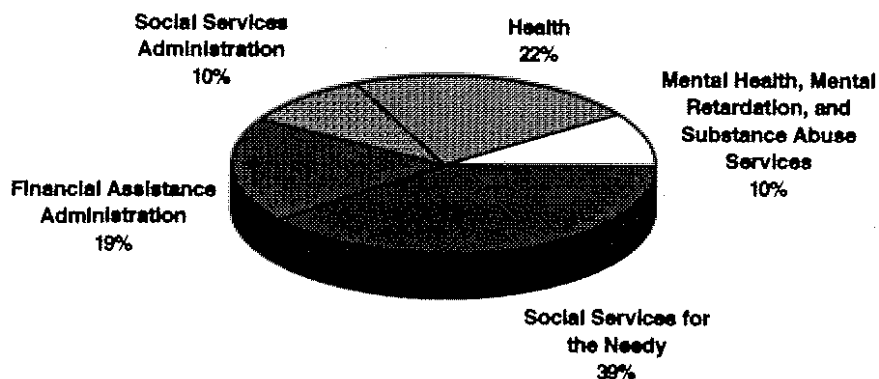
Source: Individuals with Disabilities Education Act (20 USC 1400 *et seq.*); 34 CFR 300.600; and Department of Education regulation VR 270-02-0007, Section 4.1

HEALTH AND HUMAN SERVICES

The State's involvement in health and human services, measured by the absolute number of mandates (94), is greater than in any other area of local activity. The principal mandates are grouped into the areas of public health; mental health, mental retardation, and substance abuse services; and social services (Figure 3).

Figure 3

Proportion of Health and Human Services Mandates on Local Governments by Category, 1993



Source: JLARC staff survey of State agencies, 1993; and JLARC staff review of the *Code of Virginia* and the Appropriation Act.

PUBLIC HEALTH

JLARC staff identified 21 mandates in the area of public health. The most significant mandates in this area are the requirements for every city and county to maintain local health departments and to participate in the State and Local Hospitalization Program. Other mandates in this area address services for communicable diseases, child health, maternal health, family planning, environmental health, and dental health.

The Department of Health and the Department of Medical Assistance Services are responsible for monitoring mandates in this area.

Basic Health Services

- Each county and city must establish and maintain a local department of health. The specific services to be provided via the local health department are contained in an annual contract between the locality and the State Board of Health. Department of Health (1979)

Source: *Code of Virginia* §§ 32.1-30 through 32.1-34

- Local health departments must provide communicable disease services including childhood immunizations, sexually transmitted disease screening, diagnosis, and surveillance, acquired immune deficiency syndrome and human immunodeficiency virus testing and counseling, surveillance of reportable communicable diseases, food borne disease outbreaks, and other unusual disease outbreaks, tuberculosis control screening, diagnosis, treatment, and surveillance and community education. Department of Health (1989)

Source: *Code of Virginia* §§ 32.1-11.3, 32.1-39, 32.1-45.1, 32.1-46, 32.1-49, 32.1-54, and 32.1-57; and Department of Health Agreement With Local Government

- Local health departments are required to provide child health services including child specialty services, screening for genetic traits and inborn errors of metabolism, and provision of dietary supplements, well child care, Supplemental Food Program for Women, Infants, and Children, and community education. Department of Health

Source: PL 94-10; Social Security Act, Title V; *Code of Virginia* §§ 22.1-270, 32.1-11, 32.1-65 through 32.1-68, and 32.1-77; and Department of Health Agreement with Local Government

- Local health departments are required to provide maternal health services that include prenatal and post-partum care for low risk and intermediate risk women, babycare services, Supplemental Food Program for Women, Infants, and Children, and community education. Department of Health

Source: Social Security Act, Title V; *Code of Virginia* §§ 32.1-11 and 32.1-77; Item 305 of the Appropriation Act (1992-1994); and Department of Health Agreement with Local Government

- Local health departments are required to provide family planning services that include clinic services, including drugs and contraceptive supplies, pregnancy testing and counseling, and community education. Department of Health

Source: Social Security Act, Title X; and Department of Health Agreement with Local Government

- Local health departments are required to provide environmental health services that include investigation of communicable diseases; rabies control; regulation of ice cream/frozen desserts, marinas, migrant labor camps, milk, on site sewage disposal, water supply sanitation, wells, and restaurants; and inspections of sewage treatment plants serving single family homes with discharges of less than 1,000 gallons per day; and inspections of tourist establishments. Department of Health (1986)
Source: PL 93.523, 92.500, and 95-217; *Code of Virginia* §§ 3.1-530.4, 3.1-562.1 through 3.1-562.10, 29-213.1 through 29-213.4; 32.1-13, 32.1-39, 32.1-163 through 32.1-176.6, 32.1-203 through 32.1-211, 32.1-246, 35.1-22, 62.1-44.18, and 62.1-44.19; and Department of Health Agreement with Local Government.
- Local health departments are required to provide Medicaid nursing home screening and Medicaid pre-authorizations. Department of Health (1984)
Source: *Code of Virginia* § 32.1-330; and Department of Health Agreement with Local Government
- The governing body of each city and county in Virginia is required to participate in the State/Local Hospitalization Program. Localities are required to provide funds for a share of the total costs and to annually report data on rejected applications to the program. Department of Medical Assistance Services (1990)
Source: *Code of Virginia* §§ 32.1-345 and 32.1-347; and Department of Medical Assistance Services regulation VR 460-05-1000-0000

Optional Services

- Local health departments that provide optional communicable disease services, including foreign travel immunizations, must comply with Department of Health regulations, policies, and guidelines. Department of Health
Source: Department of Health Agreement with Local Government
- Local health departments that provide optional child health services, including baby care services, sick child care, blood lead level testing, school health services, and outreach, must comply with Department of Health regulations, policies, and guidelines. Department of Health
Source: Department of Health Agreement with Local Government
- Local health departments that provide optional maternal health services, including outreach, must comply with Department of Health policies and guidelines. Department of Health
Source: Department of Health Agreement with Local Government
- Local health departments that provide optional family planning services, including outreach, must comply with Department of Health policies and guidelines. Department of Health
Source: Department of Health Agreement with Local Government

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- Local health departments that provide optional general medical services, including activities of daily living, general clinic services, home health services, outreach, occupational health services, personal care, pharmacy services, hypertension screening, referral, and counseling, and respite care services, must comply with Department of Health regulations, policies, and guidelines. Department of Health
Source: Department of Health Agreement with Local Government
- Local health departments that provide optional dental health services, including preventive clinic services for children and adults, and restorative clinic services must comply with Department of Health regulations, policies, and guidelines. Department of Health
Source: Department of Health Agreement with Local Government
- Local governments which have chosen to be a direct provider of emergency medical services are required to be licensed by the Department of Health and to comply with rules and regulations governing medical services promulgated by the Board of Health. The regulations stipulate the following: (1) requirements for emergency medical services agencies and record keeping; (2) requirements for emergency medical services vehicles and equipment; and (3) requirements for staffing and personnel certification. The requirements vary, depending on the level of services provided, as determined by the emergency medical services agency. Department of Health
Source: *Code of Virginia* §§ 32.1-148 through 33.1-156; and Emergency Medical Services regulation VR 355-32-01

Licensure, Certification, and Permitting Standards

- County, city, and town governments and regional authorities that own and operate State regulated health care facilities are required to comply with State licensure and/or certification requirements such as those governing operation of hospitals, home health agencies, hospices, nursing homes or blood banks. Department of Health
Source: Titles XVIII and XIX of the Social Security Act; *Code of Virginia* §§ 32.1-123 through 32.1-144, 32.1-162.1 through 32.1-162.15; and regulations for licensure of hospitals, nursing homes, hospices, and home health agencies.
- ⊕ County, city, and town governments and regional authorities that own and operate health care facilities that provide care for Medicare and/or Medicaid patients, and wish to receive reimbursement from the government for such care are required to comply with federal mandates. The Division of Licensure and Certification acts on behalf of the federal government in connection with the survey and certification of such facilities. Department of Health
Source: Social Security Act, Title XVIII and Title XIX

- Any local government that operates a restaurant, hotel, or summer camp is required to meet the same licensing or permitting requirements as any other operator of same. Department of Health

Source: *Code of Virginia* §§ 35.1-13 through 35.1-17; and Department of Health regulations governing licensure of hotels, summer camps, campgrounds, and restaurants

Record Retention and Reporting

- Each county and city health director shall serve as the county or city registrar of vital records and health statistics for his or her jurisdiction. The local registrar shall transmit at least twice monthly the records filed with him or her to the State Registrar. Department of Health

Source: *Code of Virginia* § 32.1-254 et seq.

Animal Control

- Animal wardens, custodians, or animal control officers engaged in the operation of a pound must avail themselves of at least one training course offered by the Commonwealth for law-enforcement officers or for humane investigators, or any animal warden, humane officer, or law officer workshop approved by the State Veterinarian.

Source: *Code of Virginia* § 3.1-796.105

- Compliance officers under the direction of the State Veterinarian must enforce the comprehensive animal laws of the Commonwealth.

Source: *Code of Virginia* § 3.1-796.112

MENTAL HEALTH, MENTAL RETARDATION, AND SUBSTANCE ABUSE SERVICES

In the area of mental health, mental retardation, and substance abuse services there are currently nine mandates. A principal requirement is that all cities and counties must establish or join an existing Community Services Board (CSB). Emergency, prescreening, and predischage planning services are the only mandated services for CSBs. However, there are a number of required administrative procedures for budgeting, services, and fiscal management as a condition for receiving State funds. Since 1991, one new mandate has been implemented.

The 1992 Virginia General Assembly passed the Comprehensive Services Act for At-Risk Youth and Families that provides a new approach to the funding and delivery of services. It mandates community-based, family-focused, coordinated planning for the needs of youths and families at risk of residential placement and/or out-of-home care. The General Assembly established a trust fund for service providers to move to more community-based program alternatives. Local governments must coordinate services for youth and families and become certified to access State funds.

The Department of Mental Health, Mental Retardation, and Substance Abuse Services and the Virginia Alcohol Safety Action Program administer the mandates in this area.

Mental Health, Mental Retardation, and Substance Abuse Services

General Administration

- Cities and counties must establish or join a community services board. Department of Mental Health, Mental Retardation, and Substance Abuse Services (1983)
Source: *Code of Virginia* § 37.1-194 *et seq.*
- Each local government establishing a single jurisdiction community services board or the local government that serves as the fiscal agent for a multijurisdictional community services board must audit the community services board's total revenues and arrange for the provision of legal services (with the other jurisdictions in a multijurisdictional community services board). Department of Mental Health, Mental Retardation, and Substance Abuse Services (1980)
Source: *Code of Virginia* § 37.1-195

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- Ⓢ Community services boards are required to have licenses to offer services to the mentally ill, mentally retarded, or substance abusing person. Licenses are issued to a community services board after successful compliance with departmental regulations. Department of Mental Health, Mental Retardation, and Substance Abuse Services (prior to 1960)

Source: *Code of Virginia* §§ 37.1-10 and 37.1-179

- Ⓢ All community services boards receiving State grant support must participate in Medicaid covered services and meet all requirements for provider participation. Department of Mental Health, Mental Retardation, and Substance Abuse Services (1992)

Source: Item 324 of the 1992 Appropriation Act, paragraph F

- Localities must approve the plan and budget of the community services board before it is eligible for State grants. In addition, localities must provide a minimum of ten percent of community services boards funding. Department of Mental Health, Mental Retardation, and Substance Abuse Services

Source: *Code of Virginia* § 37.1-198 *et seq.* and Department of Mental Health, Mental Retardation, and Substance Abuse Services contracts with community services boards

Services

- Ⓢ Community services boards must provide emergency, prescreening (before admission to a State hospital or training center), and predischarge planning services for people with mental illness, mental retardation, or alcohol and other drug problems. Department of Mental Health, Mental Retardation, and Substance Abuse Services (1980)

Source: *Code of Virginia* §§ 37.1-194 and 197.1

- Community services boards must establish and coordinate the operation of a prescription team that is responsible for integrating the community services necessary to accomplish effective prescreening and predischarge planning for clients referred to community services boards. Department of Mental Health, Mental Retardation, and Substance Abuse Services (1980)

Source: *Code of Virginia* § 37.1-197.1

- Local governments establishing a Virginia Alcohol Safety Action Program must provide assessment, education, and treatment of persons arrested and convicted of driving under the influence of alcohol or other self administered substances. Participating local governments must comply with the minimum standards and criteria for the implementation and operation of this program. Virginia Alcohol Safety Action Program (1989)

Source: *Code of Virginia* §§ 18.2-271.1 and 18.2-271.2; and Virginia Alcohol Safety Action Program regulation VR 647-01-02

- ⊕ The Comprehensive Services Act for At Risk Youth and Families of 1992 requires local governments to coordinate services for youth and families and to be certified to access State Pool Funds. Department of Mental Health, Mental Retardation, and Substance Abuse Services (1993)

Source: Regulations to be promulgated

Fiscal Impact: No estimate available

SOCIAL SERVICES

JLARC staff identified 64 social services mandates. These mandates have been divided into three categories of requirements: social services administration, financial assistance administration, and social services for the needy. The nine social services administration mandates in this category address office space and facilities, record retention, reporting, budget development, confidentiality, and staffing. In the area of financial assistance to the needy, JLARC staff identified 18 requirements. Among the major benefit programs, local governments must determine client eligibility and perform activities for the food stamp program, Medicaid Program, and Aid to Dependent Children Program. In addition, there are seven major mandated social service programs for the needy: intake services, family preservation services, adult services, child protective services, foster care and adoption, child day care, and employment services.

Two requirements have been implemented since the 1992 catalog of mandates. Local governments must now establish boards that will assess and plan for the needs of persons with physical or sensory disabilities. These disability services boards will be monitored by the Disability Services Council that is composed of consumers and representatives from local government, the Department of Education, the Department for the Deaf and Hard of Hearing, the Department for the Visually Handicapped, and the Department of Rehabilitative Services (DRS). Localities are not mandated to fund any recommendations made by the local disability services boards. In addition, the DRS has been provided with an allocation for costs associated with board administration.

The other new mandate requires local social service departments to ensure that workers who investigate out-of-family complaints meet the State Board of Social Services' qualifications. Local departments of social services must also ensure that workers receive assistance from the Department of Social Services (DSS). The Commission on Local Government prepared an estimate of the local fiscal impact of this mandate. Twenty-one counties and cities were surveyed concerning this requirement. Seven of these localities reported that the mandate would have an adverse fiscal impact. The cost estimates ranged from \$360 annually for Gloucester County to \$60,000 annually for the City of Radford. This variation in costs exists because some localities will have to hire additional personnel while others will need only additional training to comply with the requirement.

The following agencies oversee the social services requirements: the DSS, the DRS, the Department for the Aging, the Governor's Employment and Training Department, the Department of Agriculture and Consumer Services, and the Department for the Visually Handicapped.

Social Services Administration

Record Retention and Reporting

- Local social service agencies must destroy program records according to retention and disposition schedules set by the Department of Social Services. Department of Social Services
Source: *Code of Virginia* § 63.1-25
- Local social service agencies must submit reports on staffing to the Department of Social Services. Department of Social Services (prior to 1950)
Source: *Code of Virginia* §§ 63.1-33 and 63.1-52
- Localities must submit a budget for local social service agencies to the Department of Social Services annually and fund a share of the budget. Department of Social Services (prior to 1950)
Source: *Code of Virginia* §§ 63.1-33 and 63.1-91
- Local social service agencies must submit reports concerning administrative planning to the Department of Social Services. Department of Social Services (prior to 1950)
Source: *Code of Virginia* §§ 63.1-33 and 63.1-52
- Local social service agencies must ensure and maintain the confidentiality of administrative records. Department of Social Services (1938)
Source: *Code of Virginia* § 63.1-53

Personnel Administration

- Local social service departments must ensure that workers who investigate out-of-family complaints meet the State Board of Social Services' qualifications and that the workers receive assistance from the State Department of Social Services. (1993)
Source: Virginia Acts of Assembly 955
Fiscal Impact: There will be no fiscal impact for many localities. The cost estimates for other localities range from \$360 annually to \$60,000 annually. This variation in costs exists because some localities will have to hire additional personnel while others will need only additional training to comply with the requirement. (Commission on Local Government)
- Local social service agencies must conform to a merit system of personnel administration for administrative staff. Department of Social Services (prior to 1950)
Source: 5 CFR 900 Subpart F(b); and *Code of Virginia* §§ 63.1-61 and 63.1-87

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- Local social service agencies are required to comply with civil rights regulations in the administration of their services/benefits programs. Department of Social Services (1964)

Source: Civil Rights Act of 1964, as amended, Title VI, Section 601; Rehabilitation Act of 1973, Section 504; Age Discrimination Act of 1975; and Food Stamp Act of 1977

Office Space and Facilities

- Local social service agencies must conform to policies for office space and facilities set by the Department of Social Services. Department of Social Services

Source: *Code of Virginia* § 63.1-25

Financial Assistance Administration

Basic Programs

- Local social service agencies must administer the auxiliary grant program for supplemental security income recipients and provide local funding for a share of the program costs. Department of Social Services (1974)

Source: PL 93-66; *Code of Virginia* § 63.1-25.1; 63.1-86-87, 63.1-108 through 63.1-110; and Department of Social Services Manual Volume II, Part III

- Local social service agencies are required to participate in the food stamp program. They must comply with State and federal requirements in administering the food stamp program including determining the eligibility of clients, submitting cases selected for quality control review, adjusting and/or correcting individual cases determined to be a quality control error case, allowing and facilitating appeals, and implementing hearing decisions. Department of Social Services (1975)

Source: 7 CFR Subpart C and 273.15 through 273.16; Department of Social Services Food Stamp Policy Manual Volume V, Part XIX; and *Code of Virginia* §§ 63.1-25.2, 63.1-86, 63.1-87, 63.1-108 through 63.1-110, 63.1-116, and 63.1-119

- Local social service agencies are required to participate in the Aid to Dependent Children Program. Required procedures include determining eligibility of clients, submitting Aid to Dependent Children cases selected for quality control review, adjusting and/or correcting individual cases determined to be quality control error cases, and allowing and facilitating appeals. Department of Social Services (1938)

Source: 45 CFR 200, 205.10, 205.20, 205.40, and 233.20; *Code of Virginia* §§ 63.1-86, 63.1-87, 63.1-105, 63.1-105.1, 63.1-108 through 63.1-110,

63.1-116, 63.1-119; and Department of Social Services Aid to Dependent Children Policy Manual

Optional Programs

- Local social service agencies that elect to provide the general relief program must submit a plan and share in the costs of the program. Department of Social Services (1950)

Source: *Code of Virginia* §§ 63.1-86-87, 63.1-106, and 63.1-108 through 63.1-110

Financial Assistance Policies

- Local social service agencies are required to establish and maintain methods and criteria for preventing, identifying, investigating, and taking legal or administrative action in situations in which fraud in public assistance programs may exist. Department of Social Services (1983)

Source: 45 CFR 235.110(a)(1)(2); 7 CFR 273.16; *Code of Virginia* §§ 63.1-124 through 63.1-124.2; Department of Social Services Food Stamp Certification Manual, Part 17, C-1; and Department of Social Services Aid to Dependent Children Policy Manual, Section 102.2

- Local social service agencies are required, subject to specific program policy, to initiate collection action on overpayments and payments to ineligible recipients or former recipients. Department of Social Services (1983)

Source: 45 CFR 233.2(a)(13)(i); 7 CFR 273.18(d)(2); Comptroller's Directive 1-86; *Code of Virginia* § 63.1-127.2; Department of Social Services Aid to Dependent Children Policy Manual, Section 503.8; and Department of Social Services Food Stamp Certification Manual, Part 17, C-6

- All financial assistance grants shall be reconsidered by the local board as frequently as may be required by the rules and regulations of the State board. Department of Social Services (1950)

Source: *Code of Virginia* § 63.1-113

Client Eligibility

- Local social service agencies must determine the eligibility of clients for the refugee assistance program. They must follow certain procedures when determining if an individual is eligible for the program. Department of Social Services (1975)

Source: 45 CFR 400; and *Code of Virginia* § 63.1-25, 63.1-108 through 63.1-110; and Department of Social Services Manual Volume XVIII

- Local social service agencies must determine the eligibility of clients for the energy assistance program. They must administer the energy assistance program using

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federal grant funds and any other available funds. Department of Social Services (1979)

Source: PL 97-35; *Code of Virginia* §§ 63.1-25, 63.1-86, and 63.1-87; and Department of Social Services Manual Volume IX

- Local social service agencies must determine the eligibility of clients for the temporary assistance for repatriates program. Department of Social Services
Source: *Code of Virginia* § 63.1-25
- Local social service agencies must determine the eligibility of clients for the Medicaid program. They must follow certain rules and regulations associated with determining Medicaid eligibility including submitting Medicaid cases selected for quality control review and adjusting and/or correcting individual cases determined to be a quality control error case. Department of Social Services (1969)
Source: 42 CFR 431.10 and 431.800; *Code of Virginia* §§ 63.1-86, 63.1-87, 63.1-97.1, 63.1-98; and 63.1-108 through 63.1-110; and Department of Social Services Manual Volume IX
- Local social service agencies must determine the eligibility of clients for the aid to families with dependent children in foster care program. Department of Social Services (1950)
Source: *Code of Virginia* §§ 63.1-86-87, 63.1-105, 63.1-105.1, 63.1-108, 63.1-109, and 63.1-110; and Department of Social Services Aid to Families with Dependent Children Manual
- Local social service agencies must determine the eligibility of aid to families with dependent children recipients for the emergency assistance program. Department of Social Services (1950)
Source: *Code of Virginia* §§ 63.1-86-87, 63.1-105, 63.1-105.1, 63.1-108, 63.1-109, and 63.1-110; and Department of Social Services Aid to Families with Dependent Children Manual

Personnel Administration

- Local social service agencies must conform to a merit system of personnel administration for employees handling service and financial assistance programs. Department of Social Services (prior to 1950)
Source: 5 CFR 900, Subpart F(b); and *Code of Virginia* §§ 63.1-61 and 63.1-87

Record Retention and Reporting

- Local social service agencies must submit reports on caseloads to the Department of Social Services. Department of Social Services (prior to 1950)
Source: *Code of Virginia* §§ 63.1-33 and 63.1-52

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- Local social service agencies must submit reports on expenditures for financial assistance programs to the Department of Social Services. Department of Social Services (prior to 1950)
Source: *Code of Virginia* §§ 63.1-33 and 63.1-52
- The local board shall preserve for such length of time as the Department of Social Services may prescribe, a record of the decision of the local board, and all supporting documents and records including the findings and recommendations of the local superintendent. Department of Social Services (prior to 1950)
Source: *Code of Virginia* § 63.1-115
- Local social service agencies must ensure and maintain the confidentiality of client records for financial assistance programs. Department of Social Services (1938)
Source: *Code of Virginia* § 63.1-53

Social Services for the Needy

Services for Children

- The Family Based Social Services policy identifies the seven broad services provided through local social service agencies and the target populations of families to be served. Department of Social Services (1988)
Source: *Code of Virginia* §§ 63.1-25, 63.1-55 *et seq.* 63.1-56 *seq.*; and Department of Social Services regulations VR 615-50-4 and VR 63.1-248.1
- Local social service agencies are responsible for the development and delivery (or purchase) of family preservation services, including services to prevent or eliminate the need for foster care or other out-of-home placements. Department of Social Services (1980)
Source: Social Security Act, Title IV-E, Section 471(a)(15); *Code of Virginia* §§ 63.1-25, 63.1-55, 63.1-56, and 63.1-248; and Department of Social Services regulation VR 615-50-4
- Local social service agencies are required to provide child protective services. This includes receiving, investigating, and providing services for all complaints of alleged child maltreatment. It also includes the responsibility for making the appropriate reports to the central office and the Commonwealth's Attorney and amending the Child Protective Service record based on a hearing officer's decision. Department of Social Services (1975)
Source: PL 100-294 as amended by PL 101-126 and PL 101-226; *Code of Virginia* § 63.1-248.6; and Department of Social Services Program Manual Volume VII, Section III, Chapter A

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- Local departments of public welfare/social services must provide foster care. Services are to be planned and provided to the child, biological family, and foster parents. Required procedures include determining eligibility for federal funding, completing service plans, and submitting reports on services. In addition, local social service agencies must follow State board regulations for the interstate and intercountry placement of children. Department of Social Services (1977 State; 1980 federal)

Source: Social Security Act, Title IV-E, Section 470, 471, and 472; *Code of Virginia* §§ 16.1-281, 16.1-282; 63.1-33, 63.1-52, 63.1-55, 63.1-55.8, 63.1-56, 63.1-56.2, 63.1-206.1, 63.1-207, and 63.1-207.1; Department of Social Services regulation VR 615-42-1; State Board of Social Services Policy, 1977; and Department of Social Services Service Program Manual Volume VII, Chapters B, D, and E.

- Local social service agencies must provide adoption services. If reunification of a child with his or her family is not appropriate, this service may include the social and legal process to terminate parental rights and assist the child in becoming a member of a new family unit through adoption. Services are also provided to the foster family and/or adoptive family including ongoing counseling, support, training, and other pre- and post-placement services. Post-adoptive services may be included. Department of Social Services

Source: Social Security Act, Title IV-B, Section 421, and Title IV-E, Section 47; *Code of Virginia* § 63.1-220 *et seq.*; Department of Social Services regulations VR 615-43-1 through 615-43-9; and Department of Social Services Service Program Manual Volume VII, Section III, Chapters C and D .

- If so ordered by the court, local social service agencies must assist in the preparation of a comprehensive evaluation of a person who is before the court for the appointment of a guardian. Department of Social Services (1975)

Source: *Code of Virginia* § 37.1-128.1

- Whenever a local social service agency approves an application for Aid to Families with Dependent Children and Aid to Families with Dependent Children-related Medicaid on behalf of a child and it appears that the child has been abandoned by the non-custodial parent or that the person responsible for the child has failed or neglected to give proper care or support to such child, the local social service agency must refer the matter to the Department of Social Services. Department of Social Services (1974)

Source: 45 CFR 232.11 and 232.12; *Code of Virginia* § 63.1-251, 273, 274.2; and Department of Social Services regulation VR 615-70-17, Sections 2.2 and 2.3

- Local governments participating in the Head Start Program must comply with certain federal program requirements. The program's objectives are to provide

comprehensive health, educational, nutritional, social, and other services primarily to preschool economically disadvantaged children. (1981)

Source: 42 USC 9831 *et seq.*; PL 97-35; and Omnibus Budget Reconciliation Act of 1981

- Local governments participating in the Summer Food Service Program for children must comply with the program requirements. This provides nonprofit food service programs for needy children during the summer months and at other approved times, when area schools are closed for vacation. (1977)
Source: 7 CFR 225; 42 USC 1761(b); and PL 79-396

Services for Adults

- Local social service agencies are required to identify specific protective services needed (by adults found to need protective services) and provide those services to the extent that federal or State matching funds are available. They must conduct investigations into reports that older and/or incapacitated adults are abused, neglected, or exploited. They must also submit reports on protective services. Department of Social Services (1950)
Source: *Code of Virginia* §§ 63.1-33, 63.1-52, 63.1-55.1, and 63.1-55; State Board of Social Services Policy; and Department of Social Services Service Program Manual Volume VII, Section IV, Chapter A
- Local social service agencies participating in the adult and family care program must comply with State rules and regulations. Department of Social Services (1978)
Source: *Code of Virginia* § 63.1-55.1:1; and Department of Social Services Service Program Manual Volume VII, Section IV, Chapter D
- Ⓢ Local governments must comply with Titles III and V of the Older Americans Act if they are designated as area agencies on aging. They are required to prepare and implement an area plan on aging services that describes the scope of activities to be conducted with the federal and State funding received from the Department for the Aging. Department for the Aging (1974, Title III; 1979, Title V)
Source: 45 CFR 1321; 20 CFR 674; and Department for the Aging regulation VR 110-01-02
- Local social service agencies are required to (1) provide services directly to victims of spouse abuse to the extent that funds are available and (2) promote interagency cooperation for data collection, technical assistance, and service delivery. Department of Social Services (1985)
Source: *Code of Virginia* § 63.1-317.1
- Local social service agencies are required to assume responsibility for the provision of social services to persons discharged from State hospitals. Department of Social Services (1950)
Source: *Code of Virginia* § 37.1-98

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- Local social service agencies are required to provide home-based services to the extent that federal or State matching funds are available. Department of Social Services (1983)
Source: *Code of Virginia* § 63.1-55.01; State Board of Social Services Policy, January 1975; and Department of Social Services Service Program Manual Volume VII, Section IV, Chapter B
- Local social service agencies must provide needed child day care services to eligible recipients of Aid to Families with Dependent Children who are working and, to the extent of funding recipients of Aid to Families with Dependent Children and Food Stamps who participate in approved education and training activities. In addition, local social service agencies must provide transitional child day care services to eligible, employed former recipients of Aid to Families with Dependent Children for up to twelve consecutive months. It must be provided on a sliding fee scale basis. Department of Social Services (1990)
Source: PL 100-485; Hunger Prevention Act (PL 100-435); Food Security Act of 1977, Part 273.7; and Department of Social Services regulations VR 615-53-01 and VR 615-48-02
- Local social service agencies must provide employment services to recipients of food stamp assistance, including general relief recipients receiving food stamps, who are not otherwise exempt due to age, disability, etc., or due to participation in the Job Opportunities and Basic Skills Training. Department of Social Services (1981)
Source: Hunger Prevention Act (PL 100-435); Food Security Act of 1977, Part 273.7; *Code of Virginia* §§ 63.1-133.8 through 63.1-133.28; State Board of Social Services Policy, February 10, 1987; Department of Social Services regulation VR 615-48-02; and Department of Social Services Service Program Manual Volume VII, Section II, Chapter C
- Local social service agencies must operate the Job Opportunities and Basic Skills Training (JOBS) program in all localities within the State. JOBS is designed to assist recipients of Aid to Dependent Children and Aid to Dependent Children-Unemployed Parents to become economically self sufficient by providing needed education and employment related activities, child care, and support services. Department of Social Services (1990)
Source: Family Support Act, Title II (45 CFR 205 etc.); Social Security Act, Titles IV-A and IV-B; *Code of Virginia* §§ 63.1-133.8 through 63.1-133.28; and Department of Social Services regulation VR 615-48-02
- ⊕ The Job Training Partnership Act (JTPA) establishes programs to prepare youth and adults facing serious barriers to employment to participate in the labor market by providing job training services. Title III of the Act establishes worker retraining for dislocated workers. Federal funds are provided to the State through the U.S. Department of Labor. The State, in turn, allocates the funds to service delivery areas (SDAs). In each SDA, local government(s) have established a private industry

council to oversee the implementation of JTPA programs. Local governments participating in the Job Training Partnership Act via a private industry council, must comply with the regulations governing this act. This includes submitting annual job training plans, meeting job training performance standards, maintaining a management information system, and establishing procedures/systems for identifying and selecting participants and for eligibility determination. Governor's Employment and Training Department (1983)

Source: PL 97-300 as amended by the Job Training Reform Amendments of 1992

- Local elected officials shall appoint members to the private industry council representing their jurisdiction(s). The appointments must be made according to statutory requirements. Governor's Employment and Training Department (1983)

Source: PL 97-100 as amended, Section 102; Executive Order 16 (1990); and *Code of Virginia* § 2.1-704

- ⊕ Local departments of social services purchase child day care services, to the extent that funding is available, for low income families who need child care to support education and/or training activities (Fee System/Block Grant child day care program) and to support employed (Fee System/Block Grant and Fee System At-Risk child day care programs). Eligible customers contribute to the cost of care in accordance with a sliding fee scale. Department of Social Services (1990)

Source: PL 101-508; Omnibus Budget Reconciliation Act of 1990 Sections 5081 and 5082

Coordinating Human Services

- Local social service agencies are required to develop, with the community services boards, joint annual written agreements to specify what services will be provided to clients. Local social service agencies are required to serve on prescription teams to facilitate the integration of community services necessary for predischARGE planning for clients referred to community services boards. Department of Social Services (1980)

Source: *Code of Virginia* § 37.1-197.1; and Department of Social Services Service Program Manual Volume VII, Section IV, Chapter D, 1d and 2b

- The governing body of each county or city, or combination thereof, must designate a lead agency and member agencies to accomplish the coordination of local long-term care services. Representatives from the local department of public health, the local department of social services, the community services board or the community mental health clinic, the area agency on aging, and the local nursing home preadmission screening team must serve on the coordination committee. Department of Social Services (1982)

Source: *Code of Virginia* § 2.1-373.7

- Local social service agencies are required to participate in a community based screening team to evaluate individuals who will be eligible for long-term care services. Department of Social Services (1984)
Source: *Code of Virginia* § 32.1-330; and Department of Social Services Service Program Manual Volume VII, Section IV, Chapter D
- Local social service agencies are required to provide intake services, including accepting and processing service applications, arranging for family planning, and early and periodic screening, diagnosis, and treatment for children. Department of Social Services (1992 revised)
Source: Social Security Act, Title XIX
- Local social service agencies are required to provide case management services including disposition of service applications, service planning, service delivery, monitoring and case closure. Department of Social Services
Source: State Board of Social Service Policy 10-77

Record Retention and Reporting

- Local social service agencies must submit reports on caseloads for social service programs to the Department of Social Services. Department of Social Services (prior to 1950)
Source: *Code of Virginia* §§ 63.1-33 and 63.1-52
- Local social service agencies must ensure and maintain the confidentiality of client records for social service programs. Department of Social Services (1938)
Source: *Code of Virginia* § 63.1-53
- Local schools, correctional facilities, nursing homes, and social services agencies electing to receive foods donated by the U.S. Department of Agriculture must store, utilize, and account for foods they receive in accordance with federal regulations. Local social services agencies must file reimbursement claim vouchers with the Department of Agriculture and Consumer Services to receive reimbursement of expenses of distribution of foods to financially needy households. Local agencies must maintain records documenting such expenditures. Department of Agriculture and Consumer Services (1988)
Source: 7 CFR 250 and 251
- Local governments are to notify the Department for the Visually Handicapped when any vending stand or business enterprise operated in a public building becomes vacant or is created through construction of new buildings or is created through acquisitions. Department for the Visually Handicapped (1979)
Source: *Code of Virginia* § 63.1-155

- Local social service agencies must submit and implement approved plans for refugee resettlement that meet federal and State criteria for eligibility, service delivery, and reporting. Department of Social Services (1980)
Source: The Refugee Act of 1980 (PL 96-212)

Services for People with Physical and Sensory Disabilities

- Local governments, either singly or in combination with other political subdivisions, must establish boards that will assess and plan for the needs of persons with physical or sensory disabilities. These boards are to develop and make available for comment a report with a six-year projection of local service needs and priorities for persons with physical and sensory disabilities, in accordance with State guidelines. They shall obtain input from local public and private service providers and utilize such information in the development of the report; develop requests to the rehabilitative services incentive fund when local funding from match is identified; administer incentive funds, if received, in accordance with an approved expenditure plan; review and update the report accordingly; serve as a catalyst for the development of public and private funding sources; and exchange information with other local boards regarding services to persons with physical and sensory disabilities and best practices in the delivery of services. The Disability Services Council (DSC) has statutory responsibilities for monitoring this mandate. The Department of Rehabilitative Services has administrative responsibilities for this mandate and provides support to the DSC. Department of Rehabilitative Services (1992)

Source: *Code of Virginia* §§ 51.5-47 through 51.5-52

Fiscal Impact: Localities are not mandated to fund any recommendations made by the local disability services boards. Funding is available for costs associated with board administration. (Department of Rehabilitative Services)

Licensure and Certification

- Local social service agencies must approve out-of-home providers and in-home providers. Department of Social Services (1985)
Source: Department of Social Services regulation VR 615-50-1
- Local governments that operate child care centers, nursery schools, child day care camps serving children of preschool age or younger, before and after school child care programs, child day care camps serving school age children, family day care, or child caring institutions will be subject to licensure as of July 1, 1994. Department of Social Services (1992)
Source: *Code of Virginia* § 63.1-196; Department of Social Services regulations VR 615-24-01 and 615-26-01; and Child Day Care Council regulations VR 175-09-01 and 175-08-01

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- Local governments that operate adult day care centers for profit or homes for adults are subject to licensure. Department of Social Services (1974)
Source: *Code of Virginia* § 63.1-172; and Department of Social Services regulations VR 615-21-02 and 615-22-02

Personnel Administration

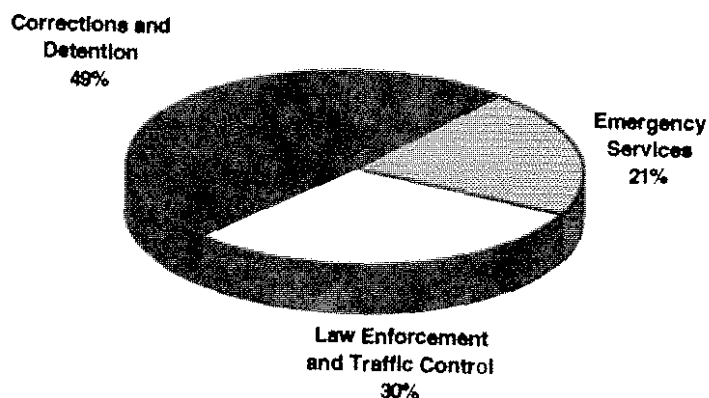
- Local social service agencies must conform to a merit system of personnel administration for employees handling social service programs. Department of Social Services (prior to 1950)
Source: *Code of Virginia* §§ 63.1-61 and 63.1-87
- Local social service agencies are required to participate in the Department of Social Services Purchase of Service system. Using this system, local departments of social services purchase social services for eligible clients from approved vendors or community resources. Department of Social Services
Source: Manual of Policy and Procedures for Local Departments of Social Services, Volume VII, Section I, Chapter G

PUBLIC SAFETY

There are 47 mandates imposed on local governments in the area of public safety. These mandates are divided into the categories of law enforcement and traffic control, corrections and detention, and emergency services (Figure 4). There are 14 law enforcement and traffic control mandates. The principal requirements describe standards for crime reporting and motor vehicle inspection. In 1991, a new mandate was issued which requires local law enforcement agencies seizing drug-related cash or assets to comply with certain administrative policies and procedures established by the Department of Criminal Justice Services (DCJS). However, DCJS estimates that this will have no fiscal impact on local governments.

Figure 4

Proportion of Public Safety Mandates on Local Governments by Category, 1993



Source: JLARC staff survey of State agencies, 1993; and JLARC staff review of the *Code of Virginia* and the Appropriation Act.

With 23 mandates, State involvement in local corrections and detention of prisoners is more extensive. Localities must follow State guidelines in all phases of jail operations, including construction, staffing, equipment, and administration. One new regulation of an optional activity has been identified in this area. Local governments that choose to operate court appointed special advocate programs must now comply with regulations governing the selection and training of volunteer advocates, program administration, record-keeping, and reporting. DCJS estimates that this requirement will have limited fiscal impact on local governments. Currently, there are ten emergency service requirements on local governments. The principal mandates are that localities must prepare plans for handling local emergencies, establish an emergency management

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agency, participate in local emergency planning committees, and comply with the Board of Health's regulations addressing emergency medical services. No new mandates have been reported in this area.

The following agencies reported the mandates in this section: the Department of State Police, the Department of Motor Vehicles, the Department of Corrections, the Department of Criminal Justice Services, the Department of Youth and Family Services, the Department of Fire Programs, the Department of Emergency Services, and the Department of Forestry.

Law Enforcement and Traffic Control

Criminal Information Exchange

- Local law enforcement agencies are required to report arrests to the Central Criminal Records Exchange. (1966)
Source: *Code of Virginia* § 19.2-387 et seq.
- Local law enforcement agencies which desire access to the Virginia Criminal Information Network must comply with Department of State Police regulations governing its operation. This includes mandated training of operators. Department of State Police (1942)
Source: *Code of Virginia* § 52-15
- Local law enforcement agencies that join the State Police's Communication System must bear a portion of the cost of establishing, operating, and maintaining such systems. (prior to 1942)
Source: *Code of Virginia* § 52-16 et seq.
- Local law enforcement agencies must report certain crimes and offenses to the Department of State Police for statewide crime reporting and for transmittal to the Federal Bureau of Investigation Uniform Crime Reporting System. Department of State Police (1974)
Source: *Code of Virginia* § 52-28
- Reports of missing children must be forwarded by local law enforcement agencies to a Missing Children Information Clearinghouse maintained by the Department of State Police. Department of State Police (1985)
Source: *Code of Virginia* §§ 15.1-131.9
- Local governments must report terrorist acts to the Department of State Police. Department of State Police (1988)
Source: *Code of Virginia* § 52-8.5

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Motor Vehicles

- Localities must certify that motor vehicles will be used solely for police work to receive unmarked vehicle plates from the Department of Motor Vehicles. (1989)
Source: *Code of Virginia* § 46.2-750.1
- Vehicles inspected by local law-enforcement officers and found to be free of defects must be issued a 90-day sticker. (1991)
Source: *Code of Virginia* § 46.2-1001
- Upon certification by a locality that an inoperable motor vehicle left on property within the locality has been disposed of as provided in the *Code of Virginia*, the Department of Motor Vehicles shall reimburse the locality \$50 for each inoperable abandoned motor vehicle disposed of at the expense of the locality. Localities are required to complete forms provided by the Department of Motor Vehicles to prevent the payment of undocumented claims. Department of Motor Vehicles (1975)
Source: *Code of Virginia* § 46.2-1207; 1991 Virginia Acts of Assembly Chapter 723, Item 754; Motor Vehicle Dealers' Advisory Board regulation VR 486-01-01; and Department of Motor Vehicles Public Participation Guidelines
- Local governments that operate motor vehicle inspection stations must comply with Department of State Police regulations governing such operation. Department of State Police (1950)
Source: *Code of Virginia* § 46.2-1163

Other Responsibilities

- Local law enforcement agencies seizing drug-related cash or assets under State law and through State courts are required to comply with policies and procedures established by the Department of Criminal Justice Services. Department of Criminal Justice Services (1991)
Source: Article VIII, Section 8 of the *Virginia Constitution*; *Code of Virginia* §§ 19.2-386.1 through 386.14; and Department of Criminal Justice Services regulation VR 240-04-2
Fiscal Impact: No fiscal impact on local governments (Department of Criminal Justice Services)
- Law enforcement officers in counties, cities, and towns must notify victims of crime of their rights by distribution of notices to each victim. (1986)
Source: *Code of Virginia* § 19.2-368.17

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- Local governments establishing McGruff houses must comply with all federal and State regulations governing the establishment and operation of these homes. Department of Criminal Justice Services (1990)
Source: *Code of Virginia* § 9-173.4 and Department of Criminal Justice Services regulation VR 240-04-01
- The Department of General Services, Division of Forensic Science, shall determine the proper method and equipment to be used in analyzing breath samples taken pursuant to this section and shall advise the respective police and sheriff's departments of the same. Department of General Services (1970)
Source: *Code of Virginia* § 18.2-267 (B)

Corrections and Detention

Adult Services

- ⊕ Recipient localities of the pre-trial release grant program are required to establish programs, deliver services, or conduct activities as set out in grant documents. They are also required to report periodically on expenditures and on progress toward achieving the objectives of the grant. Department of Criminal Justice Services (1989)
Source: *Code of Virginia* § 9-170; and Department of Criminal Justice Services Program Guidelines
- ⊕ Recipient localities of the alcohol detoxification centers grant program are required to establish programs, deliver services, or conduct activities as set out in grant documents. They are also required to report periodically on expenditures and on progress toward achieving objectives of the grant. Department of Criminal Justice Services (1983)
Source: *Code of Virginia* §§ 9-170, 9-173.1, and 9-173.2; and Department of Criminal Justice Services Program Guidelines
- ⊕ Recipient localities of the delinquency prevention grant program are required to establish programs, deliver services, or conduct activities as set out in grant documents. They are also required to report periodically on expenditures and on progress toward achieving the objectives of the grant. Department of Criminal Justice Services (1976)
Source: PL 93-415, as amended; *Code of Virginia* § 9-170; and Department of Criminal Justice Services Program Guidelines
- ⊕ Recipient localities of the drug control and system improvement grant program are required to establish programs, deliver services, or conduct activities as set out in

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grant documents. They are also required to report periodically on expenditures and on progress toward achieving the objectives of the grant. Department of Criminal Justice Services (1988)

Source: PL 100-690 (Title VI, Subtitle C); *Code of Virginia* § 9-170; and Department of Criminal Justice Services Program Guidelines

- ⊕ Recipient localities of the electronic monitoring program are required to establish programs, deliver services, or conduct activities as set out in grant documents. They are also required to report periodically on expenditures and on progress toward achieving the objectives of the grant. Department of Criminal Justice Services (1990)

Source: *Code of Virginia* §§ 9-170 and 53.1-131.2; and Department of Criminal Justice Services Program Guidelines

- ⊕ Recipient localities of the Intensified Drug Enforcement Assistance grant program are required to establish programs, deliver services, or conduct activities as set out in grant documents. They are also required to report periodically on expenditures and on progress toward achieving objectives of the grant. Department of Criminal Justice Services (1991)

Source: *Code of Virginia* § 15.1-131.12; Item 613 of the 1991 Appropriation Act; and Department of Criminal Justice Services Program Guidelines

- ⊕ Recipient localities of the victim services grant program are required to establish programs, deliver services, or conduct activities as set out in grant documents. They are also required to report periodically on expenditures and on progress toward achieving the objectives of the grant. Department of Criminal Justice Services (1984)

Source: PL 98-473; *Code of Virginia* § 9-173.3 and Department of Criminal Justice Services Program Guidelines

- Local governments that choose to operate court appointed special advocate programs must comply with regulations governing the selection and training of volunteer advocates, program administration, record-keeping and reporting. Department of Criminal Justice Services (1992)

Source: *Code of Virginia* §§ 9-173.6 through 8; and Department of Criminal Justice Services regulation VR 240-04-3

Fiscal Impact: Limited fiscal impact on local governments (Department of Criminal Justice Services)

- Localities seeking to operate a community diversion program that addresses offenders sentenced to incarceration in State and local correctional facilities must

comply with Department of Corrections program requirements. In addition, such localities must create community corrections resources boards. Department of Corrections (1991)

Source: *Code of Virginia* § 53.1-180 *et seq.*; and Community Diversion Program Standards VR 230-30-002

Youth Services

- Cities and counties operating local service units for juvenile and domestic relations courts must comply with minimum State staff and personnel standards. In addition, such cities and counties must provide services determined by the Department of Youth and Family Services. Department of Youth and Family Services (1973)

Source: *Code of Virginia* § 16.1-233; and Board of Youth and Family Services standards

- Cities and counties must provide office space, utilities, furniture, and telephone service for State operated service units for juvenile and domestic relations courts. (1974)

Source: *Code of Virginia* § 16.1-234

- Localities providing specialized court services must develop and operate probation, detention, and related court services for the juvenile and domestic relations court in accordance with established regulations. Department of Youth and Family Services (1973)

Source: *Code of Virginia* § 16.1-235; and Board of Youth and Family Services standards

- The detention home having custody or responsibility for supervision of a child shall be responsible for transportation of the child to all local medical appointments, dental appointments, psychological, and psychiatric evaluations. Transportation of youth to special placements shall be the responsibility of the court service unit. (1990)

Source: *Code of Virginia* § 16.1-254

- Local and regional detention homes, group homes, and other residential care facilities for children in need of services, delinquent, or alleged delinquent youth, reasonably accessible to each juvenile and domestic relations court should be operated in accordance with established regulations and standards. Cities and counties operating juvenile detention programs must comply with State Board of Youth and Family Services standards on housing and management. Department of Youth and Family Services (1972)

Source: *Code of Virginia* §§ 16.1-310 through 16.1-315; and Board of Youth and Family Services standards

- Ⓐ Each locality eligible to receive State funds for juvenile correctional facilities shall issue a monthly report to the State on the number of child care days registered by each juvenile correctional program or facility operated. (1983)

Source: *Code of Virginia* § 16.1-322.3

- Ⓐ To obtain funds for a delinquency prevention program from the Department of Youth and Family Services, localities must develop a comprehensive plan based on an objective assessment of the community's needs and resources for developing, coordinating, and evaluating youth services within the locality and set up a youth services citizen board. Department of Youth and Family Services (1974)

Source: *Code of Virginia* §§ 66-27 through 66-29; and Board of Youth and Family Services policies and standards

Jail Construction and Operations

- Localities must have jails or lockups that comply with Department of Corrections regulations concerning construction, equipment, administration, and operation of local correctional facilities. Department of Corrections (1990)

Source: *Code of Virginia* §§ 53.1-68 *et seq.*, 53.1-80 through 53.1-83; Item 642 of the 1991 Appropriation Act; and Department of Corrections regulations VR 230-30-008 and 230-30-005

- Ⓐ Localities shall bear at least one-half of the cost of constructing or renovating correctional facilities. No State reimbursement shall occur unless plans and specifications have been approved in advance by the Governor. Correctional facility maintenance costs shall be borne by localities. Department of Corrections (1990)

Source: *Code of Virginia* § 53.1-80 *et seq.*; and VR 230-30-005

- Ⓐ Localities seeking to have State inmates assigned to their jails for work release must follow Department of Corrections guidelines for supervising the inmates. Department of Corrections (1984)

Source: *Code of Virginia* §§ 53.1-60 and 53.1-131; VR 230-30-006; and Department of Corrections guidelines

- Local governments are required to provide contracted bed space in locally/private operated residential centers for parolees and inmates being released from prison. Department of Corrections (1991)

Source: *Code of Virginia* §§ 53.1-1 and 53.1-10; Chapter 723, Item 639 of the Appropriation Act; and the Governor's Initiative to Privatize

Record Retention, Reporting, and Training

- Local criminal justice agencies must establish record keeping procedures that ensure that criminal history record information is accurate, complete, timely, electronically and physically secure, and disseminated only to those legally entitled

to receive such information. There are also detailed procedures that must be followed regarding the dissemination of criminal history record information and for expunging records. Department of Criminal Justice Services (1977)

Source: *Code of Virginia* §§ 9-170, 9-186, 9-188, 9-190, and 9-191; and Department of Criminal Justice Services regulations

- Local governments that operate jails, lockups, or community diversion incentive programs are required, by the Board of Corrections standards, to participate in a compliance audit once each two to three years. The standards require programs to address (1) life, health, and safety issues, (2) management/administrative matters, and (3) client programs and services. Department of Corrections (1991)

Source: *Code of Virginia* §§ 53.1-68 and 53.1-182; and Department of Corrections regulations VR 230-30-001 and 230-30-002

- Local criminal justice personnel, including law enforcement personnel, courtroom security/process servers, jailers, dispatchers, undercover investigators, and criminal justice instructors, are required to meet training requirements established by the Criminal Justice Services Board. Department of Criminal Justice Services (1971)

Source: *Code of Virginia* § 9-170; and Department of Criminal Justice Services regulations

Emergency Services

Emergency Planning and Management

- Each county and city must appoint a director of emergency services. Towns with populations greater than 5,000 can operate a program separate from a county, but they must appoint a director. (1973)

Source: *Code of Virginia* § 44-146.19

- ⊕ A jurisdiction must have an emergency management agency established by law and a full-time or part-time emergency program manager. Jurisdictions must also be in compliance with Title VI of the Civil Rights Act of 1964 and the Drug Free Workplace Act of 1988. They must have an approved personnel merit system consistent with personnel standards prescribed in the Office of Personnel Management Intergovernmental Personnel Act. They must have a four year exercise plan and perform a rotation of exercise type and scenario each year. In addition, jurisdictions must have an exercise each year. Department of Emergency Services (1990)

Source: 44 CFR 302, Amendments 1 and 2; and *Code of Virginia* § 44-146.19

- All cities and counties are required to develop and maintain a local emergency operations plan. These plans assign emergency duties and responsibilities to local

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government and support agencies and set forth procedures for emergency response and recovery. They must be updated annually and revised/readopted every four years. Department of Emergency Services (1990)

Source: Federal Civil Defense Act of 1950, as amended; *Code of Virginia* § 44-146.19; and Current Program Guidance in Federal Emergency Management Agency A 1-3 and 1-8

- Each political subdivision having a nuclear power station or other nuclear facility within 50 miles of its boundaries shall prepare and keep current an appropriate emergency plan for its area to respond to nuclear accidents at such station or facility. Department of Emergency Services (1980)

Source: 10 CFR 50 (Appendix E); 44 CFR 350; and *Code of Virginia* § 44-146.19 (E)

- Local governments are required to comply with the notification and reporting requirements of the Emergency Planning and Community Right-to-Know Act of 1986. Department of Emergency Services (1986)

Source: 42 USC 9601 *et seq.*; and Superfund Amendments and Reauthorization Act of 1986, Title III

- ⊕ Following a presidential declaration of a major disaster or emergency, local governments may receive disaster assistance to save lives, protect property, and to supplement the efforts and available resources to alleviate damage, loss, and suffering caused by the event. Local level recipients agree to: assume the non-federal share of costs, complete work for which assistance is received, and comply with the provisions of a State-Applicant Disaster Assistance Agreement. Department of Emergency Services (1989)

Source: Disaster Specific Law (44 CFR 206); PL 93-288; *Code of Virginia* §§ 44-146.13, 44-146.17, and 44-146.29.2; and Department of Emergency Services Disaster Assistance Administrative Plan

- ⊕ Local governments receiving financial assistance from the Department of Emergency Services must sign an agreement with the Department of Emergency Services to furnish hazardous materials response teams. Department of Emergency Services (1988-89)

Source: *Code of Virginia* § 44-146.36

- Local governments must establish and participate in local emergency planning committees. Local governments through a local emergency planning committee are required to develop emergency response plans to respond to spills or releases of extremely hazardous materials at facilities within their jurisdiction or at the scene of transportation accidents within their jurisdictions involving these chemicals. The local emergency planning committee is also required to develop a program to maintain a listing of extremely hazardous materials within the community and to handle citizens' requests for information regarding the location, quantities, and

properties of these materials. Department of Emergency Services (1986)

Source: Superfund Amendments and Reauthorization Act of 1986 (PL 99-499); Emergency Planning and Right to Know, Title III, Section 300; *Code of Virginia* § 44-146.40; and Department of Emergency Services Virginia Hazardous Materials Emergency Response Program

Fire Programs

- ④ To be eligible for the Fire Program Fund a locality must establish a fire department as provided in the *Code of Virginia*. Localities receiving funding from the Fire Programs Fund must use the funding solely for the purposes of fire service training, construction, improving and expanding training facilities, purchasing fire-fighting equipment, or purchasing protective clothing and protective equipment for fire-fighting personnel. Funds may not be used directly or indirectly to supplant or replace any other funds appropriated by localities for fire service operation. Department of Fire Programs (1985)

Source: *Code of Virginia* § 38.2-401.B; and Department of Fire Programs Administrative Policies, Section 1.2 - Fire Programs Fund

- ④ Volunteer fire departments receiving financial assistance for training, supplies, and equipment through the Rural Cooperative Fire Protection Program must provide matching funds. Grants are on a 50-50 matching basis. Department of Forestry (1975)

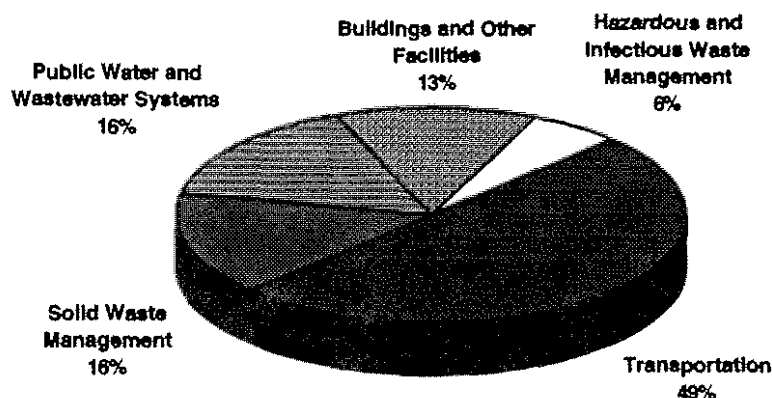
Source: PL 95-313

PUBLIC WORKS

JLARC staff identified 72 public works mandates currently in effect. Most public works mandates involve State regulation to protect general health and safety rather than to require a local service or activity. There are two categories of public works mandates: those affecting maintenance of roads and other facilities and those concerning sanitation and waste management (Figure 5).

Figure 5

Proportion of Public Works Mandates on Local Governments by Category, 1993



Source: JLARC staff survey of State agencies, 1993; and JLARC staff review of the *Code of Virginia* and the Appropriation Act.

MAINTENANCE OF ROADS AND OTHER FACILITIES

Most of the 46 mandates listed in this section are transportation-related requirements. In particular, many of the mandates identify road maintenance standards and matching fund requirements. The others are diverse, including mandates for airport construction, asbestos abatement, fire safety in buildings, bridge inspections, use of minority contractors, and bus testing. Five mandates have been implemented since the 1991 survey of State agencies.

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One of the principal transportation developments in the past two years is the passage of the federal Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). This law authorizes federal-aid highways and mass transit programs. Several of the new conditions of assistance reported by the Virginia Department of Transportation (VDOT) originate from ISTEA. Specifically, VDOT must set aside ten percent of its ISTEA appropriation for surface transportation programs to enhance the existing system. Participating local governments must provide a 20 percent match from non-transportation sources. Consequently, VDOT estimates an initial State fiscal outlay of \$7.5 million with a 20 percent match of \$1.5 million from localities. Also connected to ISTEA is the requirement for localities to conduct rural planning assistance. VDOT estimates the initial fiscal outlay to be \$360,000 (\$20,000 per planning district) and an additional yearly operating cost of \$720,000 (\$40,000 per planning district).

The Americans with Disabilities Act of 1990 affects local maintenance of roads and buildings. For example, local governments must now require that curb ramps be constructed at intersections for persons with mobility impairments. Local governments must also prepare a transition plan outlining steps to accommodate persons with disabilities. The actual cost to each local government will be dependent on the details of the individual transition plan.

The following agencies administer mandates in this area: the Department of Agriculture and Consumer Services, the Department of Aviation, the Department of Transportation, the Virginia Port Authority, the Department of Housing and Community Development, the Department of Rail and Public Transportation, the Department of Labor and Industry, and the Department of Commerce.

Transportation

Roads

- ⊕ Local governments above 3,500 population are eligible to participate in the State urban construction program. Eligibility requirements are for the requested improvement to be functionally classified as a collector or better and the locality must agree to provide two percent of the project cost. Department of Transportation (1989)

Source: *Code of Virginia* §§ 33.1-23.3 and 33.1-44; and Department of Transportation's Urban Highway Manual

- ⊕ Cities and towns above 3,500 population maintain their own streets and receive State financial assistance. Eligibility requirements are for the streets to meet established pavement and right of way widths, established maintenance standards, and quarterly certifications that none of the money has been expended for other than maintenance. Department of Transportation (1985)

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Source: *Code of Virginia* § 33.1-41.1; and Department of Transportation's Urban Highway Manual

- Ⓐ Urbanized local governments receiving federal capital or operating financial assistance through the Federal Aid Highway Act and the Urban Mass Transportation Act must have a comprehensive, cooperative, and continuing transportation planning process that results in plans and programs consistent with the comprehensively planned development of the urbanized area. These plans and programs support transportation improvements and subsequent project development activities in the area. Department of Transportation (1962)

Source: Federal Highway Procedures Manual 4-4-2

- Ⓐ Counties that wish to participate in the Department of Transportation's Revenue Sharing Program must request funding by resolution of the local governing body and provide matching funds up to \$500,000. Department of Transportation (1974)

Source: *Code of Virginia* § 33.1-75.1

- Entrances to State highways must be in accordance with Virginia Department of Transportation's "Minimum Standards of Entrances to State Highways." Department of Transportation (1970)

Source: *Code of Virginia* §§ 33.1-197 and 33.1-198

- Localities must develop subdivision streets to prescribed minimum requirements as a contingency to Department of Transportation's acceptance of these streets into the secondary system for maintenance. Department of Transportation (1949)

Source: *Code of Virginia* § 33.1-229; and Department of Transportation Subdivision Street Requirements

- When traffic signs, signals, and markings are placed or erected by local authorities, they must conform in size, design, and color to those erected for the same purpose by the Department of Transportation. Department of Transportation (1958)

Source: *Code of Virginia* § 46.2-1312

- Local governments performing construction and maintenance operations on streets and highways in the State must comply with the guidelines and uniform traffic control contained in Part VI of the Virginia Supplement to the Manual on Uniform Traffic Control Devices. Department of Transportation (1987)

Source: *Code of Virginia* §§ 33.1-193 and 194

- Ⓐ On non-federal aid highway projects, the Department of Transportation will construct and maintain reasonable and feasible noise abatement measures, provided; 1) the local jurisdiction through which the project traverses agrees to assume 50 percent of the cost of the abatement measure and 2) the local jurisdiction has an ordinance requiring developers to provide noise abatement for all new residential

and other noise sensitive developments adjacent to existing highways or known (approved) future highway corridors. Department of Transportation (prior to 1950)

Source: *Code of Virginia* § 33.1-12

- Local governments that remove under local ordinances lawfully erected and maintained outdoor advertising signs visible to interstate and federal primary highways and the national highway system must compensate for their removal. Department of Transportation (1965)

Source: 23 USC Section 131 (g); and *Code of Virginia* § 33.1-370 (d1)

- ⊕ The Department of Transportation is required to set aside ten percent of its Intermodal Surface Transportation Efficiency Act of 1991 appropriation for surface transportation programs to enhance the existing surface transportation system. Applicants, which can include localities, will be required to provide a 20 percent match from non-transportation sources. Implementation of this set aside is being designed now. The 20 percent match is being considered to further leverage federal funding. Department of Transportation (issued 1991, program requirements being developed now)

Source: Section 1034 of PL 102-240; and Intermodal Surface Transportation Efficiency Act of 1991 (105 Statute 1914)

Fiscal Impact: Fiscal impact is estimated at \$1.5 million combined local contribution. (Department of Transportation)

Sidewalks and Storm Sewer Facilities

- ⊕ Where new sidewalk and storm sewer facilities are desired by a locality on a secondary construction project, but are not essential to the basic roadway improvement, the locality is required to participate in the cost as set forth in the Commonwealth Transportation Board policy. Department of Transportation (1966)

Source: Commonwealth Transportation Board Cost Participation Policy (2/18/88)

- Local governments that require curbs along their streets shall require that curb ramps be constructed at intersections for use by persons with mobility impairments. Such ramps shall comply with Virginia Department of Transportation Road and Bridge Standards. Department of Transportation (1991)

Source: 28 CFR 35, 49 CFR Parts 27, 37, and 38; and *Code of Virginia* § 15.1-38.1

Fiscal Impact: Fiscal impact is dependent on the details of the individual local transition plans. (Department of Transportation)

Bridges

- ⊕ Local governments must have all bridges on public roads inspected at regular intervals not to exceed two years according to National Bridge Inspection Standards. The requirements for the inspections, frequency of inspections, qualifications of personnel, inspection reports, and inventory are given in the standards. Department of Transportation (1988)
Source: 23 CFR 650; and Subpart C

- ⊕ Local governments must implement a Federal Highway Administration bridge management system (BMS) that is compatible with the State's BMS. Department of Transportation (1995)

Source: Section 1034 of PL 102-240; and Intermodal Surface Transportation Efficiency Act of 1991 (105 Statute 1914)

Fiscal Impact: Detailed requirements of the bridge management system have not been issued yet. The estimated cost for developing a unique system is between \$5 and \$10 million, while adaptation of the Federal Highway Administration's system will cost about \$200,000. Tentatively, the Virginia Department of Transportation is planning to give the cities, towns, and counties that maintain their own bridges the option of using the Department of Transportation's bridge management system. The costs associated with this will be from the additional field reconnaissance that will be conducted during normal bridge inspections. These costs could be between \$100 and \$500 per structure per inspection. (Department of Transportation)

Mass Transit

- ⊕ Local governments must have new model buses tested at a facility in Altoona, Pennsylvania in order to receive mass transit federal and grant funding. Department of Rail and Public Transportation (1987)

Source: 49 CFR 665; and Surface Transportation and Uniform Relocation Assistance Act of 1987 (PL 100-17)

- Local governments must follow Clean Air Act Amendments to receive mass transit federal aid grant funding. The amendments mandate emission reduction goals for non-attainment areas. The Clean Air Act also mandates strict emission standards for diesel engines. Alternate fueled vehicles may be required in urban buses if diesel fueled buses cannot meet the emission standards by 1993. Department of Rail and Public Transportation (1990)

Source: PL 101-549; and Clean Air Act Amendments

- ⊕ Local governments receiving funds through the Department of Rail and Public Transportation's Industrial Access Railroad Track Program must agree that a

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vested interest shall be retained in the tracks or facilities constructed with these funds. Department of Rail and Public Transportation (1987)

Source: *Code of Virginia* § 33.1-221.1:1

- ④ Local governments receiving funds through the Department of Rail and Public Transportation's Rail Preservation Program must agree that a vested interest shall be retained in the tracks or facilities reconstructed or improved with these funds. Department of Rail and Public Transportation (1991)
Source: Attorney General's Opinion

Airports

- Localities that choose to operate airports or air navigation facilities must maintain those facilities consistent with State and federal standards. Department of Aviation (1979)
Source: 14 CFR 139; *Code of Virginia* § 5.1-2.2; and Department of Aviation standards
- Local governments that sponsor airports must secure a license or permit from the Department of Aviation in order to operate or expand a commercial airport. Department of Aviation (1950)
Source: *Code of Virginia* §§ 5.1-7 and 5.1-8
- An airport sponsor must obtain the approval of the Department of Aviation on all leases involving land that is airport property. Department of Aviation (1950)
Source: *Code of Virginia* § 5.1-40
- ④ An airport sponsor who applies for federal funds for an airport planning or construction project must have the approval of his or her project application by the Department of Aviation prior to submitting it to the Federal Aviation Authority. Department of Aviation (1950)
Source: *Code of Virginia* § 5.1-47
- ④ Airport sponsors in the acceptance of grant or loan funds from the Virginia Aviation Board must agree to terms and conditions as set forth by the Board. Such terms and conditions (called assurances) today require that the sponsor: maintain the airport for a minimum period of twenty years, carry out and complete the project in accordance with the plans and specifications, accomplish all procurements in accordance with the Virginia Public Procurement Act, keep the airport free and clear of hazards to air navigation, and not release the title to any airport real property without the approval of the Department of Aviation. Department of Aviation (1950)
Source: *Code of Virginia* § 5.1-52; and Department of Aviation standards

Other Transportation Programs

- Ⓐ Localities that wish to participate in the Department of Transportation's Industrial Access Program must request funds by resolution of the governing body, provide right of way at no cost to the program, and provide matching funds up to \$150,000 for allocations over \$300,000. Department of Transportation (1956)
Source: *Code of Virginia* § 33.1-221; and Commonwealth Transportation Board Industrial Access Policy (8/16/89 and 1/17/91)
- Ⓐ Localities that wish to participate in the Department of Transportation's Airport Access Program must request funds by resolution of the governing body and to provide right of way at no cost to the program. Department of Transportation (1981)
Source: *Code of Virginia* § 33.1-221; and Commonwealth Transportation Board Airport Access Policy (7/16/81)
- Ⓐ Localities that wish to participate in the Department of Transportation's Recreational Access Program must request funds by resolution of the governing body, provide right of way at no cost to the program, provide matching funds up to \$100,000 for allocations over \$250,000 for a road and up to \$15,000 for a bikeway; adopt a zoning ordinance prior to requesting funds for a bikeway; and designate the road as a scenic highway or byway. Department of Transportation (1966)
Source: *Code of Virginia* § 33.1-223; and Commonwealth Transportation Board Recreational Access Policy (10/25/89)
- Ⓐ Local governments receiving funds under Section 5 of the Department of Transportation Act shall agree that a vested interest shall be retained in the project. Department of Rail and Public Transportation (1979)
Source: 49 USC 1654 et. seq.

General Administration of Transportation Programs

- Ⓐ Local governments receiving federal transportation financial assistance must complete all federal aid construction contracts in metric units after September 30, 1996. Department of Transportation (1992)
Source: Federal Highway Administration Metric Conversion Policy 57 federal regulation 24843 - 24846
Fiscal Impact: No estimate available
- Counties and towns must hold public hearings, provide engineering support, and make formal requests to the Department of Transportation before cut-through traffic restrictions can be implemented on local roads and streets, except in Henrico and Arlington Counties. Department of Transportation (1989)

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Source: Commonwealth Transportation Board Resolution dated March 10, 1989

- ⊕ If a local government desires to use transportation funds for the construction of transportation facilities or if it desires the Department of Transportation to administer a contract using their funds for the construction of transportation facilities, the contracting process and quality control process must be in accordance with applicable State procurement statutes and Department of Transportation policies and procedures. These requirements include but are not limited to public advertisement for the contract, public reading, award of the contract to the lowest responsive and responsible bidder, and documentation to assure compliance with contractual provisions including minimally accepted performance standards. Department of Transportation and Department of Rail and Public Transportation (1964 or earlier)

Source: Federal Highway Administration requirements; Environmental Protection Agency requirements; Federal wage requirements; Federal Procurement requirements; etc.; Department of Transportation Act (49 USC 1654 *et seq.*); *Code of Virginia* §§ 11-7 and 33.1; Commonwealth Transportation Board Policy and Procedures; Department of Transportation's Road and Bridge Sections; and State orders pertaining to public procurement, contracting, and equal employment opportunity directions

- ⊕ In order to receive federal mass transit grants, local governments must follow federal labor standards. Department of Rail and Public Transportation (1964)

Source: 29 CFR 215; and PL 100-82

- ⊕ Local governments must have not less than ten percent of the amounts authorized to be expended from mass transit federal aid grant funding with small business concerns owned and controlled by socially uneconomically disadvantaged individuals according to the Surface Transportation Assistance Act of 1987, as amended. Department of Rail and Public Transportation (1987)

Source: PL 97-424; 49 CFR 23; and Intermodal Surface Transportation Efficiency Act of 1992

- ⊕ The Department of Transportation and localities must conduct rural planning assistance in 18 of the 21 planning district commissions in the State. Department of Transportation (1993)

Source: Virginia Secretary of Transportation directive (resulting from Intermodal Surface Transportation Efficiency Act of 1991)

Fiscal Impact: The initial fiscal outlay is estimated to be \$360,000 (\$20,000 per planning district) with an additional \$720,000 annual cost (\$40,000 per planning district)

- Local governments must hold public hearings and make formal requests to the Department of Transportation before through truck restrictions are implemented on secondary highways, except for Arlington and Henrico Counties. Department of Transportation (1973)
Source: *Code of Virginia* §§ 46.2-809, Commonwealth Transportation Board resolution dated September 15, 1988
- ☺ Arlington and Henrico Counties maintain their own system of local roads. Each county is required to update and submit a report on the lane miles of eligible roads in each county as of December 31 of the preceding year. Department of Transportation (1985)
Source: *Code of Virginia* § 33.1-23.5:1
- Public transit systems must file financial and other required statistical data annually with the Commonwealth Transportation Board. Department of Rail and Public Transportation (1972)
Source: *Code of Virginia* § 33.1-223.1

Buildings and Other Facilities

Buildings

- Local building departments must enforce the Uniform Statewide Building Code that provides mandatory statewide regulations for the construction, maintenance, and use of buildings and structures. Department of Housing and Community Development (1972)
Source: *Code of Virginia* § 36-97 *et seq.*; and Department of Housing and Community Development regulations VR 394-01-21 and 394-01-22
- School boards and other local entities that have ownership/responsibility for boilers and other pressure vessels must protect human life and property from the unsafe or dangerous construction, installation, inspection, operation, maintenance, and repair of boilers and pressure vessels in the Commonwealth through periodic inspections, repair/replacement, and payment of fees for certificate of operation. Department of Labor and Industry (1972)
Source: *Code of Virginia* § 40.1-51.6 *et seq.*; and Department of Labor and Industry regulation VR 425-01-63
- Local employees who perform asbestos inspections, create project designs or management plans, or engage in asbestos abatement activity or monitoring activity must be licensed by the Department of Commerce. (1987)
Source: *Code of Virginia* § 54.1-503; and Department of Commerce regulation VR 190-05-1

- Localities must comply with federal Environmental Protection Agency regulations that have been incorporated by reference by the Department of Labor and Industry and which govern the demolition and renovation of facilities and the disposal of asbestos containing wastes from such operations. Department of Labor and Industry (1992)
Source: *Code of Virginia* §40.1, Chapter 3.3; and Department of Labor and Industry regulation VR 425-03-85.61
- Local government building officials are required to ascertain that contractors hold valid State contractors licenses prior to issuing building permits. (prior to 1950)
Source: *Code of Virginia* § 54.1-1111
- Local governments must comply with the Statewide Fire Prevention Code that establishes minimum statewide standards for fire safety in buildings and structures and provides regulations regarding storage, handling, and use of certain substances, materials, and devices such as explosives and blasting agents. Department of Housing and Community Development (1986)
Source: *Code of Virginia* § 27-94 *et seq.*; and Department of Housing and Community Development regulation VR 394-01-6

Other Facilities

- Localities which own dams must make any improvements necessary to correct deficiencies in construction or maintenance found during inspection by the Virginia Soil and Water Conservation Board. (1982)
Source: *Code of Virginia* § 10.1-604 *et seq.*
- The governing body of each county or city shall maintain or cause to be maintained a pound or enclosure in accordance with guidelines issued by the Department of Agriculture and Consumer Services. Department of Agriculture and Consumer Services (1984)
Source: *Code of Virginia* § 3.1-796.96
- ⊕ Local governments requesting financial assistance for port facilities must submit a request to the Virginia Port Authority's Board of Commissioners showing that the project will further the interests of the Commonwealth. Localities are generally required to provide matching funds unless they certify that such an obligation constitutes an undue hardship. Virginia Port Authority (1988)
Source: *Code of Virginia* §§ 33.1-23.03:2, 58.1-638, and 58.1-2425; and Virginia Port Authority Policy on Grants to Local Governments for Financial Assistance for Port Facilities

SANITATION AND WASTE MANAGEMENT

The increased interest in environmental protection during the past two decades is reflected in the number of mandates implemented in the area of sanitation and waste management. Most of the regulations on local governments address solid waste management facilities, sewage treatment plants, public water systems, and hazardous waste management procedures. JLARC staff identified 26 of these requirements, including four new mandates.

The new mandates issued by the Department of Waste Management (DWM) and the State Water Control Board (SWCB) direct local governments to comply with certification and permitting requirements. The fiscal impact of the new regulations is difficult to measure because the costs are dependent on the size of the facility and its location. For example, local governments with an aggregate above-ground maximum storage or handling capacity of equal to or greater than 25,000 gallons of oil must now have an approved contingency plan to ensure environmental protection. Depending on the size of the facility, the application fee can cost from \$718 to \$3,353. In addition, the SWCB estimates the plan preparation costs to be between \$2,000 and \$10,000. Similarly, the cost of DWM's new permitting requirement varies according to the type of application filed.

Legislation passed during the 1993 General Assembly Session removes local governments' exemption from having to demonstrate financial assurance for the closing of their landfills. Under new federal Resource Conservation and Recovery Act (RCRA) regulations, operators of sanitary landfills, including local governments, will have to show they are financially capable of assuming the costs of all activities associated with closure, post-closure monitoring, and taking corrective actions, if necessary. This change in State law brings Virginia into compliance with RCRA financial assurance requirements.

The 1993 General Assembly also passed legislation which aids local governments in complying with solid waste management mandates. The deadline for closing landfills not in compliance with new regulations was extended, allowing solid waste management facilities to continue receiving waste until they have reached their vertical design capacity. However, the facility must still comply with the requirements for liners and leachate control and not pose a hazard to human health or the environment. The General Assembly also established the Virginia Recycling Markets Development Council which will be responsible for coordinating and promoting public and private sector efforts to enhance markets for the use of recycled materials. This will potentially assist local governments in complying with mandated recycling rates.

The Department of Waste Management, the Department of Health, the State Water Control Board, and the Department of Conservation and Recreation reported these sanitation and waste management requirements in February of 1993. On April 1, 1993, the SWCB and the DWM were consolidated with the Air Pollution Control Board, and the Council on the Environment to create the Department of Environmental Quality

(DEQ). The mandates reported by these agencies are still effective, however, they are now under the DEQ.

Solid Waste Management

- All Virginia local governments that choose to operate solid waste management facilities are required to have a permit from the Department of Waste Management. The permit is developed to ensure the proper siting, design, construction, operation, closure, and post closure care maintenance of the facility. The amended Virginia regulations for sanitary landfills follow closely the federal criteria contained in 40 CFR 258. Statutory mandates dealing with compliance deadlines and closure standards adopted by the 1992 session of the General Assembly were also incorporated. For existing sanitary landfills, compliance with the liner and leachate collection requirements may be deferred until January 1, 1994, or until the permitted capacity is exhausted over the landfill footprint in existence on October 1993. The 1993 amendment contains significant procedural simplifications in permit issuance and processing of petitions for variances. Every holder of a permit or applicant for a permit to operate a solid waste management facility shall file a disclosure statement with the director. Department of Waste Management (1988, amended 1993)

Source: *Code of Virginia* § 10.1-1408.1; and Department of Waste Management regulation VR 672-20-10 (Solid Waste Management Regulations)

- Local governments may enact ordinances regulating the siting or solid waste management facilities within their boundaries. Such ordinances shall prescribe the criteria, form of application, and procedure, which shall include a public hearing, for siting approval. In establishing the criteria, local governments shall consider the potential effect of the siting of a solid waste management facility on the health, safety, and welfare of the residents of the locality. Local governments shall grant or deny siting approval within 120 days of receipt of applications filed in compliance with the provisions of applicable ordinances. A failure to act within 120 days shall constitute a granting of siting approval. Department of Waste Management (1989)

Source: *Code of Virginia* § 15.1-11.02

- All local government waste management facilities must be operated under the direct supervision of a person certified by the Board of Waste Management Facility Operators. Department of Waste Management (1993)

Source: *Code of Virginia* §§ 10.1-1408.2 and 54.1-2209

Fiscal Impact: No estimate available

(DEQ). The mandates reported by these agencies are still effective, however, they are now under the DEQ.

Solid Waste Management

- All Virginia local governments that choose to operate solid waste management facilities are required to have a permit from the Department of Waste Management. The permit is developed to ensure the proper siting, design, construction, operation, closure, and post closure care maintenance of the facility. The amended Virginia regulations for sanitary landfills follow closely the federal criteria contained in 40 CFR 258. Statutory mandates dealing with compliance deadlines and closure standards adopted by the 1992 session of the General Assembly were also incorporated. For existing sanitary landfills, compliance with the liner and leachate collection requirements may be deferred until January 1, 1994, or until the permitted capacity is exhausted over the landfill footprint in existence on October 1993. The 1993 amendment contains significant procedural simplifications in permit issuance and processing of petitions for variances. Every holder of a permit or applicant for a permit to operate a solid waste management facility shall file a disclosure statement with the director. Department of Waste Management (1988, amended 1993)

Source: *Code of Virginia* § 10.1-1408.1; and Department of Waste Management regulation VR 672-20-10 (Solid Waste Management Regulations)

- Local governments may enact ordinances regulating the siting of solid waste management facilities within their boundaries. Such ordinances shall prescribe the criteria, form of application, and procedure, which shall include a public hearing, for siting approval. In establishing the criteria, local governments shall consider the potential effect of the siting of a solid waste management facility on the health, safety, and welfare of the residents of the locality. Local governments shall grant or deny siting approval within 120 days of receipt of applications filed in compliance with the provisions of applicable ordinances. A failure to act within 120 days shall constitute a granting of siting approval. Department of Waste Management (1989)

Source: *Code of Virginia* § 15.1-11.02

- All local government waste management facilities must be operated under the direct supervision of a person certified by the Board of Waste Management Facility Operators. Department of Waste Management (1993)

Source: *Code of Virginia* §§ 10.1-1408.2 and 54.1-2209

Fiscal Impact: No estimate available

- Local governments operating sanitary landfills after October 9, 1991 must comply with new Federal Resource Conservation and Recovery Act Subtitle D requirements by October 9, 1993. For facilities electing to close rather than to comply with the new requirements, closure must still take place pursuant to the new requirements for final covers for any facilities continuing to receive waste after October 9, 1991. Financial assurance for closure, 30-year post closure care maintenance, and corrective action must be in place by April 9, 1994. Facility design criteria will apply to new units or lateral expansions only. For existing facilities, the compliance dates regarding new groundwater monitoring and corrective action requirements are deferred to 1994, 1995, or 1996 depending upon the distance to the nearest drinking water intake. Department of Waste Management (1991)

Source: 42 USC 6901 *et seq.*; and 40 CFR Parts 257 and 258

- Local governments electing to compost yardwaste are required to follow the requirements of the Yardwaste Composting Regulations. These requirements set reduced requirements for siting design and grass, brush, and tree pruning. Farmers accepting under 6,000 cubic yards of material each year are exempt. Department of Waste Management (1990)

Source: *Code of Virginia* § 10.1-1408.1; and Department of Waste Management regulation VR 672-20-32

- ⊕ Localities receiving litter control grants must follow guidelines set by the Department of Waste Management. Department of Waste Management (1987)

Source: *Code of Virginia* § 10.1-1422; and Department of Waste Management guidelines

- Local governments that elect to place a litter receptacle at a park, beach, campground, trailer park, or other public place are responsible for removing the litter from those receptacles. Department of Waste Management (1987)

Source: *Code of Virginia* § 10.1-1421

- Applicants for new, amended, or modified permits for solid waste management facilities must file a permit application fee in order for the permit to be considered complete. Department of Waste Management (1992)

Source: *Code of Virginia* §§ 10.1-1402.1-1402.3

Fiscal Impact: No estimate available

- Upon receipt of a request for certification that the location and operation of a solid waste management facility are consistent with all applicable ordinances, the local government shall inform both the applicant and the Department of Waste Management of the facility's compliance or noncompliance within 120 days. Department of

Waste Management (1988)

Source: *Code of Virginia* § 10.1-1408.1; and Department of Waste Management regulation VR 672-20-10 (Solid Waste Management Regulations)

- All Virginia localities either individually or joining together as a multijurisdiction "region," were to submit comprehensive 20-year solid waste management plans by July 1, 1991. On July 1, 1997 and each succeeding five year period thereafter, a report updating these plans must be submitted. Department of Waste Management (1989)

Source: *Code of Virginia* § 10.1-1411; and Department of Waste Management regulation VR 672-50-01 (Regulations for the Development of Solid Waste Management Plans)

- All Virginia localities must develop and implement recycling programs to achieve the following minimum recycling rates: 10 percent by December 31, 1991, 15 percent by December 31, 1993, and 25 percent by December 31, 1995. Progress reports on attaining these recycling goals shall be submitted to the Department of Waste Management within 120 days of the close of each prescribed date. Department of Waste Management (1989)

Source: *Code of Virginia* § 10.1-1411; and Department of Waste Management regulation VR 672-50-01 (Regulations for the Development of Solid Waste Management Plans)

Hazardous and Infectious Waste Management

- Local governments are required to comply with hazardous waste management requirements as possible generators, transporters, or for treatment, storage, or disposal. When hazardous wastes are shipped, localities are required to use manifests and ship by permitted transporters. For generators of less than 1,000 kilograms per month of non-acutely hazardous waste who intend to have their wastes reclaimed, special provisions exist whereby the maintenance of contractual agreements may eliminate the need to use a manifest. Wastes must be shipped to designated facilities that are either permitted or engaged solely in specific forms of recycling without prior storage or treatment. In general, any treatment, storage, or disposal requires a permit. Special reduced requirements, exemptions, and/or exclusions do exist which, if met, may allow certain forms of on-site storage or treatment to take place without a permit. Publicly owned treatment works receiving hazardous wastes by methods other than direct pipeline discharge from the point of generation, i.e., via truck or rail, etc. may do so only if in compliance with the permit-by-rule provisions. Department of Waste Management (1986)

Source: 42 USC 6901 *et seq.*; 40 CFR 260-268; *Code of Virginia* § 10.1-1400 *et seq.*; and Department of Waste Management regulation VR-672-10-1 (Virginia Hazardous Waste Management Regulations)

- Local governments electing to generate, transport, and/or treat, store, or dispose of infectious waste must meet certain minimum regulatory standards. Generators must assure that their infectious waste is appropriately handled. There are exclusions for incidental amounts of blood (e.g., gauze-backed plastic strips), but sharps (e.g., needles) must be disposed of in rigid containers. Transporters must be registered with the Department of Waste Management. Treatment, storage, or disposal facilities require permits. At present only incineration or steam sterilization is allowed as treatment technologies. Following treatment, the waste is handled as sanitary waste. Department of Waste Management (1990)

Source: Department of Waste Management regulation VR 672-40-1

- Local governments electing to transport hazardous materials in excess of specified levels must follow the federal safety requirements, even for intrastate shipments. Hazardous materials must be properly packaged and labeled. Transport vehicles must bear placards to identify the hazard associated with the materials. Drivers of hazardous materials vehicles must have a commercial driver's license. Department of Waste Management (1981)

Source: 49 CFR 100; *Code of Virginia* §§10.1-1450 to 1454; and Department of Waste Management regulation VR 672-30-1

- Local governments that have underground storage tanks are required to upgrade or replace the tanks. The local governments are further required to ensure that the underground storage tanks are or have not leaked regulated substances into the ground. If leaks have occurred, further testing and, if necessary, clean up are required. State Water Control Board (1988)

Source: 40 CFR 280 and 281; *Code of Virginia* §§ 62.1-44.34:9 and 62.1-44.34:12; and State Water Control Board regulations VR 680-13-02 and 680-13-03

Public Water and Wastewater Systems

- Local governments that own/operate public water systems are required to have a waterworks operation permit. This permit requires: (1) continuous provision of safe drinking water; (2) monitoring requirements; and (3) reporting requirements. Department of Health

Source: PL 93-523, as amended; *Code of Virginia* §§ 32.1-167 through 32.1-176; and waterworks regulation VR 355-18-000

- Local governments that operate wastewater treatment facilities are required to have a permit authorizing the discharge from the facility to surface waters. The permit imposes controls on the quality of the discharge to ensure compliance with water quality standards, requirements for monitoring the discharge, and reporting of the results. State Water Control Board (1946)

Source: 33 USC 1251 *et seq.*; *Code of Virginia* § 62.1-44.15; and State Water Control Board regulations VR 680-14-01, 680-14-02, and 680-14-03

- Local governments that intend to conduct an activity in navigable waters that is required to be permitted by a federal agency must obtain a certification from the State that the activity will not result in violation of the State's water quality standards. The certification applies to numerous types of activities; i.e., dredging, docks, water intakes, etc. The certification authorizing the activity is granted through a Virginia Water Protection Permit that may contain special conditions necessary to protect water quality. State Water Control Board (1972)

Source: 33 USC 1341; *Code of Virginia* § 62.1-44.15; and State Water Control Board regulation VR 680-15-02

- Local governments that operate facilities that have the potential to discharge to State waters but are not actually a point source discharge are required to obtain a Virginia Pollution Abatement Permit. These permits contain requirements specific to the operation and include monitoring and reporting requirements. The types of operations that may be required to obtain a Virginia Pollution Abatement permit are land application of sludge or land treatment of wastewater. State Water Control Board (1971)

Source: *Code of Virginia* §§ 62.1-44.15 and 62.1-44.18; and State Water Control Board regulation VR 680-14-01

- Any local government that withdraws ground water, for any purpose, in excess of 300,000 gallons per month in a ground water management area is required to obtain a permit prior to the withdrawal. The permit imposes maximum withdrawal amounts and monitoring and reporting requirements. State Water Control Board (1974)

Source: *Code of Virginia* §§ 62.1-254 through 62.1-270 (regulations to implement the Ground Water Management Act of 1992 are currently under development)

- Upon declaration of a surface water management area, local governments who withdraw more than 300,00 gallons of surface water in any single month will be required to obtain a surface water withdrawal permit/certificate, which may establish, among other things, instream flow conditions that limit the volume and rate at which water may be withdrawn at certain times and conditions to protect beneficial uses. State Water Control Department (1992)

Source: *Code of Virginia* §§ 62.1-242 through 62.1-253; and State Water Control Board regulation VR 680-15-03

Fiscal Impact: No estimate available

- Any local government with an aggregate above-ground maximum storage or handling capacity of equal to or greater than 25,000 gallons of oil must have an approved contingency plan that will ensure that the applicant can take steps necessary to protect environmentally sensitive areas, to respond to the threat of an oil discharge, and to contain cleanup and mitigate an oil discharge within the shortest feasible time. State Water Control Board (1992)

Source: *Code of Virginia* § 62.1-44.34:15; and State Water Control Board regulation VR 680-14-07

Fiscal Impact: Depending on the size of the facility, the application fee can cost from \$718 to \$3,353. The cost varies according to the type of application filed. (State Water Control Board)

- Local governments which own/operate marinas and the sanitary sewage facilities serving marinas and other places where boats are moored must conform to the requirements of the 1990 Sanitary Regulations for Marinas and Boat Moorings. Department of Health

Source: *Code of Virginia* § 32.1-246; and Department of Health sanitary regulations for marinas and boat moorings VR 355-17-01

- Localities are enabled to adopt local comprehensive stormwater management programs. Localities choosing to adopt a program must comply with minimum technical and administrative criteria specified in the regulations. Plan review, inspection, and enforcement of the local program are conducted by the locality. Department of Conservation and Recreation (1990)

Source: *Code of Virginia* § 10.1-603 *et seq.*; and Department of Conservation and Recreation regulation VR 215-02-00

- Local governments which own and operate sewage collection (sewerage) systems and sewage treatment works are required to provide an engineered design for any new or upgraded facility that is consistent with the public health and water quality objectives of the Commonwealth through submission of documents for a technical

evaluation of the design, construction, installation, and operation of equipment and systems. Such information must verify that the proposed facilities will reliably achieve compliance with the sewerage regulations and with permit requirements. Department of Health

Source: *Code of Virginia* §§ 32.1-164 and 62.1-44.19; and 1977 sewerage regulations VR 355-17-02

- Local governments are required to report on their water withdrawals if the average daily withdrawal exceeds 10,000 gallons per day in any one month. The report is submitted annually and is required to contain monthly withdrawal information, source of water, and water sales to other entities. State Water Control Board (1982)

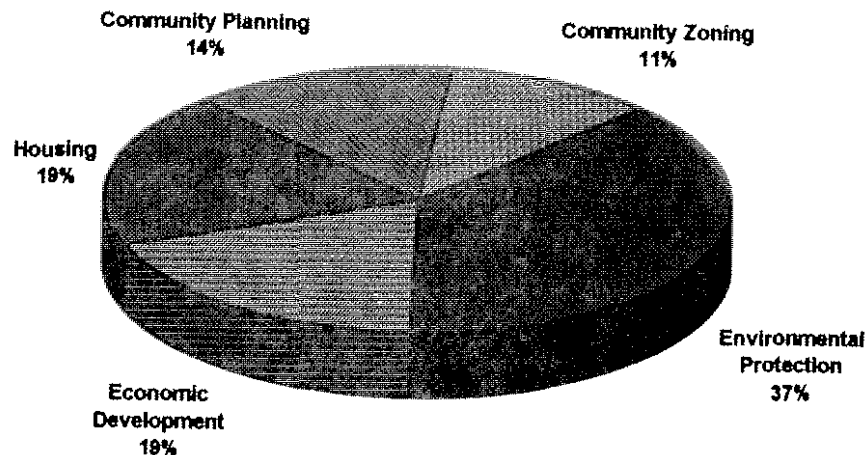
Source: *Code of Virginia* § 62.1-44.38; and State Water Control Board regulation VR 680-15-01

COMMUNITY DEVELOPMENT

There are 37 community development mandates. These mandates address planning, zoning, economic development, housing, and environmental protection (Figure 6). Many of the development mandates are conditions of grant programs such as one of the three new requirements in this area. This mandate, implemented in 1991, requires local governments that are awarded grants for planting trees on government land to contribute a percentage of the project cost, adhere to the purposes of the program, and complete the appropriate documentation and certification.

Figure 6

Proportion of Community Development Mandates on Local Governments, 1993



Source: JLARC staff survey of State agencies, 1993; and JLARC staff review of the *Code of Virginia* and the Appropriation Act.

One of the most significant community development mandates is the Chesapeake Bay Preservation Act of 1988. Localities in the Tidewater region of Virginia must comply with the requirements of the Act, which include designating Chesapeake Bay Preservation areas, incorporating protection of the quality of State waters into comprehensive plans and zoning ordinances, and employing particular performance criteria.

The following agencies oversee requirements in this area: the Department of Economic Development; the Department of Mines, Minerals, and Energy; the Council on the Environment; the Department of Agriculture and Consumer Services; the Department of Aviation; the Department of Transportation; the Virginia Racing Commission; the Department of Housing and Community Development; the Department of Conserva-

tion and Recreation; the Department of Forestry; the Department of Air Pollution Control; the Chesapeake Bay Local Assistance Department; and the Marine Resources Commission.

Community Planning and Zoning

Planning

- Localities must create a local planning commission to promote the orderly development of such political subdivision and its environs. (1976)
Source: *Code of Virginia* § 15.1-427.1
- Localities must adopt a comprehensive plan for land use development. In preparation of a comprehensive plan, the local commission shall survey and study such matters as set forth in statute. At least once every five years the comprehensive plan shall be reviewed by the local commission to determine whether it is advisable to amend the plan. (1980)
Source: *Code of Virginia* §§ 15.1-446.1, 15.1-447, 15.1-454, and 15.1-456
- Localities must adopt ordinances regulating the subdivision of land and its development. (prior to 1950)
Source: *Code of Virginia* § 15.1-465
- Adjoining counties wishing to create a primary highway transportation improvement district must adhere to a petition, notification, hearing, and resolution process set forth in statute. (1987)
Source: *Code of Virginia* § 15.1-1372.1 *et seq.*
- ⊕ The board of supervisors for each county, in cooperation with a designated Department of Transportation representative, must finalize and adopt a six-year secondary improvement plan for the county. Further, this plan is to be officially updated at least once every two years. Department of Transportation (1977)
Source: *Code of Virginia* § 33.1-70.01

Zoning

- Airport safety zoning requires that localities with airspace needed for safe ingress and egress to public-use airports adopt overlay zoning that keeps that airspace free from obstruction to the safe passage of aircraft. Affected localities are ones in which a public-use airport is located and those whose close proximity to such an airport places its airspace in protection. Department of Aviation (1989)
Source: *Code of Virginia* § 15.1-492.02

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- Localities enacting zoning ordinances are required to establish a board of zoning appeals to hear appeals on specific sections of the ordinances that create undue hardships on the public. (prior to 1950)
Source: *Code of Virginia* § 15.1-494
- Localities must adopt a suitable ordinance for control of the development of subdivision streets as prerequisite to taking certain streets into the secondary system. Department of Transportation (1968)
Source: *Code of Virginia* §§ 15.1-465, 33.1-72.1 and 33.1-229; and Commonwealth Transportation Board Rural Addition Policy (2/18/88)
- Local governments must establish a procedure to ensure that plans, specifications, or calculations prepared in connection with improvements to real property be prepared by a licensed or certified architect, professional engineer, land surveyor or landscape architect. (1982)
Source: *Code of Virginia* § 54.1-410

Community Development

Economic Development

- ⊕ Local governments participating in the shell building initiative are required to be a party to a memorandum of agreement and understanding. This document covers the use of loan proceeds and repayment provisions. Department of Economic Development (1990)
Source: Department of Economic Development Shell Building Initiative
- ⊕ Localities are required to meet State established guidelines and matching fund requirements to participate in the Rural Economic Development Grant Fund Program. Department of Housing and Community Development (1991)
Source: Item 87 of the 1992 Appropriation Act
- ⊕ Localities must comply with State and federal requirements to participate in the Community Development Block Grant Program. Department of Housing and Community Development (Federal 1974, State 1983)
Source: Housing and Community Development Act of 1974, Title I
- Localities must have pari-mutual wagering approved in a local referendum before the Virginia Racing Commission can grant a license to own or operate a horse racetrack or satellite facility in any city or county. Virginia Racing Commission (1988)
Source: *Code of Virginia* § 59.1-391

- Ⓢ Southwest Virginia localities are required to comply with federal and State guidelines and requirements to participate in the Appalachian Regional Commission Program. Department of Housing and Community Development (1966)
Source: Appalachian Regional Commission Code
- Ⓢ Localities that participate in the Gypsy Moth Appalachian Integrated Pest Management Project are required to hire a county gypsy moth coordinator and additional wage personnel as needed to carry out the program. Localities are also responsible for the procurement of most supplies and equipment. Except for office space, all costs are paid by the federal government under the program that is administered by the Department of Agriculture and Consumer Services. Department of Agriculture and Consumer Services (1987-88) [Will be eliminated in fiscal year 1993-1994]
Source: *Code of Virginia* §§ 3.1-188.20 through 3.1-188.31:2
- Ⓢ Localities must comply with specific provisions described in the Virginia Cooperative Suppression Program Guidelines for participation in order to receive State and federal funding. Department of Agriculture and Consumer Services (1983)
Source: *Code of Virginia* §§ 3.1-188.20 through 3.1-188.31:2

Housing

- Ⓢ Recipients of funds from the Virginia Appalachian Housing Development Program are required to use the funds to stimulate the construction and rehabilitation of low and moderate income housing through one of three mechanisms; (1) project planning locals to sponsors or developers; (2) site development grants to developers; or (3) technical assistance grants to public or private applicants to establish and maintain local technical assistance programs.
Source: Appalachian Development Act, Section 207
- Ⓢ Localities that participate in the Virginia Rental Rehabilitation Program must identify target areas for the program and make funds available to landlords on a matching basis for the rehabilitation of low income rental units.
Source: 24 CFR 511
- Ⓢ Local governments who wish to participate in the Section 8 Housing Assistance Payments Program must elect to administer it by resolution. Through these programs eligible families (very low income) receive rental assistance paid directly to their landlord or his or her representative. Program administration at the local level includes: (1) out-reach to landlords and applicants through advertising in local media, meetings, and interviewing prospective participants; (2) determining the eligibility of applicants and housing units according to guidelines; and (3) certification of tenant income to determine the actual level of rent and utility assistance.
Source: 24 CFR 882 and 887

- Ⓢ Local governments that wish to receive federal funding from State housing programs through the 1990 National Affordable Housing Act must submit a five-year comprehensive housing affordability strategy.

Source: 24 CFR 91

- Ⓢ Local governments receiving federal funding through the Home Investment Partnerships Act must comply with certain conditions. The Act specifies eligible uses of investment funds and sets conditions on the use of funds. Localities that request funding from the federal Home Investment Partnerships Program through the State must complete a program application. Department of Housing and Community Development (1992)

Source: 24 CFR 92; and National Affordable Housing Act, Title II

- Ⓢ Local governments receiving federal funding through the Homeownership and Opportunity for People Everywhere Programs must comply with program requirements. The program provides grants for public and Indian housing homeownership in order to expand the number of tenants in such housing who can purchase their units.

Source: National Affordable Housing Act, Title III

- Counties, cities, and towns must promote the construction and maintenance of affordable housing sufficient to meet current and future needs of residents at all levels of income in the locality. (1993)

Source: Virginia Acts of Assembly Chapter 758

Fiscal Impact: No estimate available

Environmental Protection

- Ⓢ In order to qualify for Public Beach Conservation and Development Act funds, localities must establish local erosion advisory commissions. (1980)

Source: *Code of Virginia* § 10.1-711

- All areas of the State are required to be covered by an erosion and sediment control program that is consistent with State guidelines and minimum standards. Coverage is provided by local governments through ordinances and local programs that provide for plan review, inspections, and enforcement. Department of Conservation and Recreation (1973)

Source: *Code of Virginia* § 10.1-560 *et seq.*; and Virginia Soil and Water Conservation Board regulation VR 625-02-00

- Ⓢ Local governing bodies receiving money from the Flood Prevention and Protection Assistance Fund must comply with requirements established by the Virginia Soil

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and Water Conservation Board. (1989)

Source: *Code of Virginia* § 10.1-603.16 *et seq.*

- ⊕ Localities must reimburse the Department of Forestry for expenditures for forest protection, forest fire detection, forest fire prevention, and forest fire suppression not to exceed in any one year an amount not to exceed five cents per acre of privately owned woodland. Department of Forestry (1988)
Source: *Code of Virginia* § 10.1-1124
- ⊕ Localities receiving grants from the Department of Air Pollution Control must comply with Environmental Protection Agency requirements. Department of Air Pollution Control (1984)
Source: Environmental Protection Agency 105 Grant Regulations
- Counties, cities, and towns in Tidewater Virginia are required to designate Chesapeake Bay Preservation Areas within their jurisdictions. Chesapeake Bay Local Assistance Department (1988)
Source: Article XI of *Virginia Constitution*; *Code of Virginia* § 10.1-2109.A; Chesapeake Bay Local Assistance Department regulation VR 173-02-01.1, Sections 1.3, 2.2.A, 5.5.A; and 1987 Cooperative Bay Agreement
- Counties, cities, and towns in Tidewater Virginia are required to incorporate protection of the quality of State waters into each locality's comprehensive plan consistent with the provisions of the Act. Chesapeake Bay Local Assistance Department (1988)
Source: *Code of Virginia* § 10.1-2109.B; Chesapeake Bay Local Assistance Department regulation VR 173-02-01.1, Sections 1.3, 2.2.C, 5.6.A; and 1987 Chesapeake Bay Agreement
- Counties, cities, and towns in Tidewater Virginia are required to have zoning ordinances that incorporate measures to protect the quality of State waters in the Chesapeake Bay Preservation Areas. Chesapeake Bay Local Assistance Department (1988)
Source: Article XI of *Virginia Constitution*; *Code of Virginia* § 10.1-2109.C; Chesapeake Bay Local Assistance Department regulation VR 173-02-01.1, Sections 1.3, 2.2.D, 5.6.B; and 1987 Chesapeake Bay Agreement
- Counties, cities, and towns in Tidewater Virginia are required to have a plan of development process prior to the issuance of a building permit to assure that use and development of land in Chesapeake Bay Preservation Areas is accomplished in a manner that protects the quality of State waters. Chesapeake Bay Local Assistance Department (1988)
Source: Article XI of *Virginia Constitution*; Chesapeake Bay Local Assistance Department regulation VR 173-02-01.1, Section 2.2.G; and 1987 Chesapeake Bay Agreement

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- Counties, cities, and towns in Tidewater Virginia are required to incorporate protection of the quality of State waters in Chesapeake Bay Preservation Areas into their subdivision ordinances consistent with the Act and Regulations. They are further required to ensure that all subdivisions developed pursuant to their subdivision ordinances comply with all criteria developed by the Chesapeake Bay Local Assistance Board. Chesapeake Bay Local Assistance Department (1988)
Source: Article XI of *Virginia Constitution*; *Code of Virginia* § 10.1-2109.D; Chesapeake Bay Local Assistance Department regulation VR 173-02-01.1, Sections 1.3, 2.2.E, 5.6.D; and 1987 Chesapeake Bay Agreement
- Counties, cities, and towns in Tidewater Virginia are required to have erosion and sediment control ordinances that require compliance with the regulations. Chesapeake Bay Local Assistance Department (1988)
Source: Article XI of *Virginia Constitution*; Chesapeake Bay Local Assistance Department regulation VR 173-02-01.1, Section 2.2.F; and 1987 Chesapeake Bay Agreement
- Counties, cities, and towns in Tidewater Virginia are required to employ performance criteria promulgated by the Chesapeake Bay Local Assistance Board to ensure that the use and development of land in Chesapeake Bay Preservation Areas shall be accomplished in a manner consistent with the Act and regulations. Chesapeake Bay Local Assistance Department (1988)
Source: Article XI of *Virginia Constitution*; *Code of Virginia* § 10.1-2111; Chesapeake Bay Local Assistance Department regulation VR 173-02-01.1, Section 4.1.A; and 1987 Chesapeake Bay Agreement
- Tidewater localities that have adopted an ordinance of local regulation of tidal wetlands under State overview and oversight must supply meeting spaces and reasonable secretarial, clerical, legal, and consulting services as needed. Marine Resources Commission (1980)
Source: *Code of Virginia* § 28.2-1405
- Certain designated localities in the Tidewater area that have adopted an ordinance of local regulation of coastal primary sand dunes and beaches under State review and oversight must supply meeting spaces and reasonable secretarial, clerical, legal, and consulting services as required. Marine Resources Commission (1972)
Source: *Code of Virginia* § 28.2-1305
- ☺ Localities participating in the America the Beautiful grant program must agree to accomplish tree management or tree preservation activities. Department of Forestry (1991)
Source: Catalog of Federal Domestic Assistance, 10.664

- Ⓐ Local governments accepting federal funding through the Virginia Coastal Resources Management Program must meet all requirements of the contract they execute with Council on the Environment. Those requirements include completion of all work and submission of all deliverables as described in the locality's approved proposal as well as compliance with all State and federal administrative requirements. Council on the Environment (1986)

Source: PL 92-583; USC 1451 *et seq.* as amended; and Executive Order 15 (1990)

- Local governments wishing to engage in coal surface mining activities are subject to the requirements of the federal Surface Mining Control and Reclamation Act of 1977. State primacy is implemented through the Virginia Coal Surface Mining and Reclamation Act. Department of Mines, Minerals, and Energy (1981)

Source: Public Law 95-97

- Local governments electing to regulate mining operations in their jurisdiction under a waiver of the State regulatory program must adopt standards not below those set forth in Chapter 16 of Title 45.1 of the *Code of Virginia*. Department of Mines, Minerals, and Energy (1968)

Source: *Code of Virginia* § 45.1-197

- County, city, and town units of government that are awarded grants for planting trees on land owned or controlled by State or local government must contribute a minimum of 45 percent of the project cost from sources other than the federal government, adhere to the purposes of the program, and complete the certification included in this request for proposal and other federal documentation and certifications required following project approval. Department of Forestry (1991)

Source: Small Business Administration Appropriation Act (PL 101-515 Section 24)

Fiscal Impact: Local governments must contribute 45 percent of the project cost

- Local governments must assess and tax land which is subject to a perpetual conservation easement under the Virginia Conservation Easement Act or the Open-Space Land Act at the use value for open space. (1993)

Source: Virginia Acts of Assembly Chapter 390

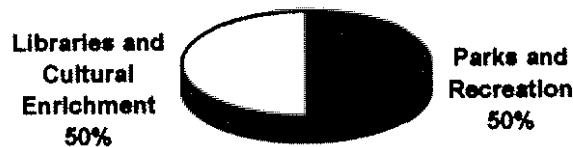
Fiscal Impact: No estimate available

PARKS, RECREATION, AND LIBRARIES

Federal and State regulation of local parks, recreation, and libraries is limited, with very few compulsory orders. The requirements in this section primarily address local hunting and boating ordinances, public libraries, and grant programs (Figure 7). Fourteen mandates were identified, including one new condition of financial assistance implemented by the Department for the Visually Handicapped (DVH) in 1991. Specifically, sub-regional libraries receiving grants from the DVH must comply with particular procedures and reporting requirements. The DVH estimates the cost to local governments to be minimal.

Figure 7

Proportion of Parks, Recreation, and Libraries Mandates by Category, 1993



Source: JLARC staff survey of State agencies, 1993; and JLARC staff review of the *Code of Virginia* and the Appropriation Act.

The following agencies monitor mandates in this area: the Department of Game and Inland Fisheries, the Department of Conservation and Recreation, the Virginia State Library and Archives, the Virginia Commission for the Arts, and the Department for the Visually Handicapped.

Parks and Recreation

- Localities must notify the Commission of Game and Inland Fisheries by May 1 annually of local ordinances that restrict carrying loaded firearms and hunting or trapping near public roads; otherwise they are not enforceable. Department of Game and Inland Fisheries (1976)

Source: *Code of Virginia* §§ 18.2-287.1 and § 29.1-528

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- Localities that require hunters who hunt deer or bear to purchase a damage stamp must report disbursements and collections to the Department of Game and Inland Fisheries annually. Department of Game and Inland Fisheries (1981)
Source: *Code of Virginia* § 29.1-358
- Localities that have adopted ordinances prohibiting hunting or trapping near primary or secondary highways must report such ordinance to the Department of Game and Inland Fisheries no later than May 1 of the year in which the ordinance is passed; otherwise it is not enforceable. Department of Game and Inland Fisheries (1962)
Source: *Code of Virginia* § 29.1-526
- Localities that have adopted ordinances placing limits on the type and caliber of weapons used to hunt within the boundaries of the locality must report such ordinance to the Department of Game and Inland Fisheries no later than May 1 of the year in which the ordinance is passed, otherwise it is not enforceable. Department of Game and Inland Fisheries (1976)
Source: *Code of Virginia* § 29.1-528
- Local boating ordinances and regulatory markers must be approved by the State Board of Game and Inland Fisheries. (1960)
Source: *Code of Virginia* § 29.1-744
- ⊕ Localities participating in the Virginia Outdoors Fund Grants Program must follow administration requirements to maintain parks and open spaces for outdoor recreation in perpetuity. These requirements are based on the Federal Land and Water Conservation Fund mandates. Department of Conservation and Recreation (1991)
Source: 1991 Virginia Acts of Assembly, Chapter 723, Item 577
- ⊕ Political jurisdictions receiving funds from the Land and Water Conservation Fund are required to maintain park and open spaces for outdoor recreation in perpetuity. The program requires continuous post inspections by the State to effect the program mandate. Department of Conservation and Recreation (1962).
Source: PL 88-578; and Item 577 of the 1991 Appropriation Act

Libraries and Cultural Enrichment

- Public libraries serving a population of over 5,000 must employ State licensed librarians. (1988)
Source: *Code of Virginia* § 42.1-15.1

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- To promote the voluntary cooperation and networking of all public, academic, special, and school libraries throughout the Commonwealth, participating agencies must follow standards, procedures, and processes established by the State Library Board. Virginia State Library and Archives (1983)

Source: *Code of Virginia* §§ 42.1-32.1 through 42.1-32.7

- ⊕ To qualify for State or federal grants-in-aid, local libraries must meet State requirements for personnel, materials and operating procedures. Virginia State Library and Archives (1991)

Source: *Code of Virginia* § 42.1-46 *et seq.*; and State Library Board procedures

- ⊕ Localities must follow the standards endorsed by the State Library Board to assist in planning and development of public library services. Virginia State Library and Archives (1987)

Source: State Library and Archives Planning for Library Excellence standards

- ⊕ Sub-regional libraries that receive grants to operate a library service for the blind, visually handicapped, and physically handicapped from the Department for the Visually Handicapped, must comply with all State and federal procedures and reporting requirements. Department for the Visually Handicapped (1991)

Source: *Code of Virginia* § 63.1-74.1

Fiscal Impact: Minimal fiscal impact on localities (Department for the Visually Handicapped)

- ⊕ In order to receive matching funds through the Local Government Challenge Grants from the Virginia Commission for the Arts, localities must give financial support to not-for-profit arts organizations in their jurisdictions. The commission will match dollar for dollar, up to \$5,000, money donated from local tax revenues to the arts. Virginia Commission for the Arts (1980)

Source: Virginia Commission for the Arts 1992 - 94 Guidelines for Funding

- ⊕ In order to receive funds through the Artist in Residence Grants Program from the Virginia Commission for the Arts, elementary and secondary schools must match the grant at least dollar for dollar. This funding program supports residencies by professional working artists in elementary and secondary schools. Virginia Commission for the Arts (1968)

Source: Virginia Commission for the Arts 1992 - 94 Guidelines for Funding

ADMINISTRATION OF THE JUDICIAL SYSTEM

Mandates that relate to the administration of the judicial system basically pertain to certain support services provided by local governments. Localities must supply facilities and equipment for courts and magistrates. They must also process payments to attorneys, jurors, and witnesses. Another mandate requires localities to pay legal fees for indigents charged with local offenses. There have been no new mandates reported in this area since 1973.

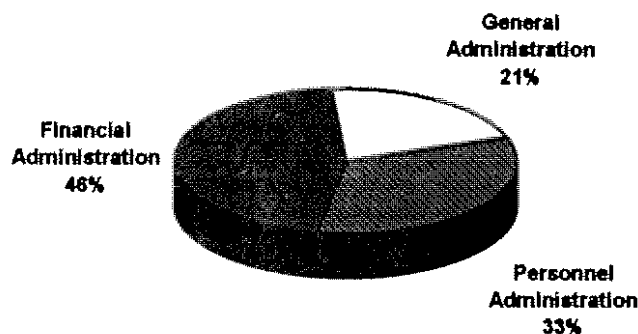
- Localities must process payments to attorneys, jurors, and witnesses for later reimbursement by the State. (prior to 1950)
Source: *Code of Virginia* §§ 14.1-189, 14.1-195.1, 14.1-195.2, 15.1-66.4, and 15.1-131.6
- Localities must provide quarters, equipment, furniture, and other necessary support for courts and magistrates. (prior to 1950)
Source: *Code of Virginia* §§ 15.1-19, 15.1-257, 16.1-69.50, 16.1-69.51:1, 16.1-234, 17-19.1, 17-42, 17-47, 17-71, 17-76, and 19.2-48.1
- Localities must provide representation for indigents charged with local offenses that might result in imprisonment. (prior to 1973)
Source: *Code of Virginia* § 19.2-163

ADMINISTRATION OF GOVERNMENT

Local officials must comply with 48 administrative requirements addressing a variety of government practices. These mandates are organized into three categories: general administration, personnel administration, and financial administration (Figure 8). The general administration section includes mandates concerning elections, constitutional officers, and management of public records. The personnel administration requirements affect grievance procedures, personnel classification, uniform pay plans, employee leave, retirement benefits, and safety. The principal financial administration mandates address procedures for procurement, fiscal reporting, budgeting, taxation, and finance.

Figure 8

Proportion of Administration of Government Mandates on Local Governments by Category, 1993



Source: JLARC staff survey of State agencies, 1993; and JLARC staff review of the *Code of Virginia* and the Appropriation Act.

JLARC staff identified five new administration of government mandates. In compliance with a federal mandate, the Council on the Environment now requires local governments to report lobbying efforts. Local electoral boards must provide signs outside polling places to direct people with disabilities and elderly persons to any special entrance designed for their use. A new personnel-related mandate directs local governments to submit grievance procedures to the Department of Employee Relations Counselors. Another personnel administration mandate requires local governments to report new hires to the Virginia Employment Commission. In addition, the Department of the Treasury now instructs public depositories, including local governments, to notify the State treasurer of any discrepancy between the public depositories' records and the information provided by the depository. All of these mandates have a nominal fiscal impact on local governments.

The following agencies administer mandates in this area: the Compensation Board, the State Board of Elections, the Department of General Services, the Council on the Environment, the Department of Employee Relations Counselors, the Department of Labor and Industry, the Workers' Compensation Commission, the Department of Transportation, the Department of Personnel and Training, the Department of the Treasury, the Department of Taxation, and the Virginia Retirement System.

General Administration

Constitutional Officers

- Each city and county must elect a treasurer, clerk of court, commissioner of revenue, sheriff, and attorney for the Commonwealth. All constitutional officers shall file, on or before February 1 of the fiscal year for which the request is made, a written request for the expense of their offices. The requests shall be made on forms prescribed by the Compensation Board. Compensation Board (1934)

Source: Items 68 through 74 of the 1992 Appropriation Act

- The governing body of each county and city shall provide offices for the treasurer, attorney for the Commonwealth, sheriff, commissioner of revenue, commissioner of accounts, and division superintendent of schools for such county or city. (prior to 1950)

Source: *Code of Virginia* § 15.1-258

- Local employees or constitutional officers and those employees of the court, as well as general receivers and clerks are required to participate in the blanket surety bond program established and administered by the Department of General Services, Division of Risk Management. Department of General Services

Source: *Code of Virginia* §§ 2.1-526.9 and 2.1-526.9:1

Elections

- Counties and cities are required to have an electoral board and a general registrar and they must follow State and federal procedures for voting and registration. The cost of conducting elections shall be born by the locality. State Board of Elections (1965)

Source: Voting Rights Act of 1965; 42 USC; Article II, Section 8 of *Virginia Constitution*; *Code of Virginia* §§ 24.1-29, 24.1-32, and 24.1-43; and Item 75 of the 1991 Appropriation Act

- Local electoral boards must provide signs outside polling places to direct people with disabilities and elderly persons to any special entrance designed for their use. (1993)

Source: Virginia Acts of Assembly Chapter 160

Fiscal Impact: Nominal fiscal impact on local governments

- The governing body of each county and city shall adopt for use at elections a voting machine or system that has been approved by the State Board of Elections.

Source: Code of Virginia § 24.1-203

Record Maintenance and Reporting

- Local governments must comply with the Virginia Freedom of Information Act by providing ready public access to records in the custody of public officials and by allowing free entry to meetings of public bodies where public business is being conducted. (1976)

Source: *Code of Virginia* § 2.1-340.1 *et seq.*

- Localities shall comply with regulations issued by the State Library Board to inventory, schedule, and, microfilm official records of counties and cities. (1972)

Source: *Code of Virginia* § 42.1-76 *et seq.*

- ⊕ Local governments seeking federal funds are required to submit a disclosure form to report lobbying. Council on the Environment (1993)

Source: Executive Order 12459, implemented at 15 CFR Part 26, Section 26.510; and 31 USC 1352, implemented at 15 CFR Part 28, and 28.105 and 28.110

Fiscal Impact: Nominal fiscal impact on local governments (Council on the Environment)

Personnel Administration

Grievance Procedures

- Local governments having more than fifteen employees must establish a grievance procedure that conforms to the State grievance procedure; otherwise the State's grievance procedures will apply. Local government grievance procedures must be

● Compulsory Orders ⊕ Conditions of State & Federal Financial Aid ○ State & Federal Regulation of Optional Activities

certified as conforming. A copy of the certification must be filed with the director of the Department of Employee Relations Counselors. Department of Employee Relations Counselors (1974)

Source: *Code of Virginia* §§ 15.1-7.1 and 15.1-7.2

- Local governments are required to submit a copy of their grievance procedure to the Department of Employee Relations Counselors. Department of Employee Relations Counselors (1991)

Source: *Code of Virginia* Sections 15.1-7.1 and 7.2

Fiscal Impact: Nominal fiscal impact on local governments (Department of Employee Relations Counselors)

Personnel Classification

- Local governments having more than fifteen employees must adopt a personnel classification plan for service and a uniform pay plan. (1973)

Source: *Code of Virginia* § 15.1-7.1

- ⊕ Localities receiving State and federal financial assistance must abide by State and federal anti-discrimination policy as it applies to people with disabilities. The Americans with Disabilities Act provides a comprehensive mandate for elimination of discrimination against individuals with disabilities. It provides enforceable standards for public transit systems to provide accessible services. Department of Transportation (1991)

Source: Americans with Disabilities Act; PL 101-336; Department of Transportation Act Section 5 (49 USC 1654 et. seq.); and *Code of Virginia* § 51.5-40

- Local governments must comply with federal anti-discrimination policy. (1964)

Source: Civil Rights Act of 1964

Benefits

- Every county and city for which employees work shall annually provide for each employee at least two weeks paid vacation, at least seven paid sick days and such holidays as are prescribed by State law. If any such employee or deputy is required to work on a legal holiday, he or she will be provided with an equal amount of paid compensatory time in the same calendar year. (1972)

Source: *Code of Virginia* § 15.1-19.3

● Compulsory Orders ⊕ Conditions of State & Federal Financial Aid ○ State & Federal Regulation of Optional Activities

- Local governments must provide all officers and employees of local governments with paid leave of absence for military duty, not to exceed 15 workdays per federal fiscal year. (1938)
Source: *Code of Virginia* § 44-204
- Localities with a population over 5,000 must provide a retirement system for employees either by establishing a local retirement system that equals or exceeds two-thirds of the service retirement allowance to which the employee would have been entitled had the allowance been computed under the provisions of the Virginia Retirement System or by participating directly in the Virginia Retirement System. Localities will forfeit Alcoholic Beverage Control profits if they fail to comply with the set standards. Localities must also submit an annual financial report to the Virginia Retirement System. Virginia Retirement System
Source: *Code of Virginia* § 51.1-800
- Local governments that choose to participate in the local health benefits program must comply with the Department of Personnel and Training's regulations governing the administration of the program. Department of Personnel and Training (1990)
Source: *Code of Virginia* § 2.1-20.1:2; and Department of Personnel and Training regulation VR 525-01-02

Occupational Safety and Health

- Localities must provide for the occupational safety and health of its employees through compliance with the State enforcement of the federal Occupational Safety and Health Act of 1970, its rules and regulations as well as any unique requirements of the Virginia State plan program. Compliance requires support of both general and specific programmatic standards for general industry and construction activities including, but not limited to, such areas as general safety and health provisions, occupational health and environmental controls, confined spaces, trenching and excavation, machine shops, overhead high voltage lines, toxic and hazardous substance, electrical work practices, sanitation, etc. Department of Labor and Industry (1973)
Source: PL 91-596; 29 CFR 1910, 1926, 1928 and *Code of Virginia* §§40.1-1, 40.1-2.1, and 40.1-22
- Local governments must provide benefits to workers under the Virginia Workers' Compensation Act for injuries or occupational diseases that are the result of employment. Workers' Compensation Commission (prior to 1950)
Source: *Code of Virginia* § 65.2-100 *et seq.*; and Rules of the Workers' Compensation Commission Rules 6 and 7

- County, city, and town officials who license employers to conduct business under Chapter 37 of Title 58.1 must provide employers requesting such licenses with information concerning the statutory workers' compensation insurance requirements. The information to be distributed by the local government officials is supplied by the Virginia Workers' Compensation Commission. Workers' Compensation Commission (1989)

Source: *Code of Virginia* § 65.2-200 B

Reporting and Record Maintenance

- All employers, including local governments, unless exempted by regulation, must report new hires to the Virginia Employment Commission within 35 days of the initial hire. This information will be transferred to the Department of Social Services for use in conjunction with the enforcement of child support orders. (1993)

Source: Virginia General Assembly Chapter 246

Fiscal Impact: Nominal fiscal impact on local governments (Virginia Employment Commission)

- Pursuant to the Virginia Security for Public Deposits Act, public depositors must notify the State treasurer of any discrepancy between the public depositor's records and the information provided by the depository. Department of the Treasury (1991)

Source: *Code of Virginia* § 2.1-364 and Department of the Treasury regulation VR 640-02

Fiscal Impact: Nominal fiscal impact on local governments (Department of the Treasury)

- Commissioners of revenue are required to certify copies of banks' returns on net capital and schedules and transmit certified copies to the Department of Taxation. Department of Taxation (prior to 1950)

Source: *Code of Virginia* § 58.1-1207

Other

- Localities that choose to offer apprenticeship related instruction must provide instruction, curriculum development, supervision, and administrative services consistent with the related and supplemental needs of apprentices and sponsors. Department of Labor and Industry (1938)

Source: 29.29 CFR; *Code of Virginia* § 40.1-118(10); Item 118 of the 1991 Appropriation Act; and Department of Labor and Industry regulation VR 425-01-26

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| ● Compulsory Orders | ⊕ Conditions of State & Federal Financial Aid | ○ State & Federal Regulation of Optional Activities |
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Financial Administration

Budgeting, Auditing, and Procurement

- Localities must use a uniform fiscal year that begins on July 1 and ends on June 30. Towns having a population of less than 3,500 are excluded, but any school district they operate must use this fiscal year. (1980)
Source: *Code of Virginia* § 15.1-159.8
- Localities must follow a budget process that complies with State requirements for content, form, publication, and public hearings. These requirements are optional for localities that have a charter or special law containing budget provisions. (1959)
Source: *Code of Virginia* § 15.1-160 *et seq.*
- Localities must submit a financial report with the Auditor of Public Accounts annually. Towns having a population of fewer than 3,500 are excluded unless they maintain a separate school division. (prior to 1950)
Source: *Code of Virginia* § 15.1-166
- Localities must have an annual audit performed on all accounts and records by either the Auditor of Public Accounts or an independent certified public accountant. Towns having a population of less than 3,500 are excluded unless they maintain a separate school division. (prior to 1950)
Source: *Code of Virginia* § 15.1-167
- ⊕ In order to receive grant funding, local governments must comply with the single audit requirement. Department of Transportation (1984)
Source: 31 USC 7501-750; Office of Management and Budget Circular A-128; Comptroller's Compliance Assurance Manual Section 3850; Department of Transportation Act Section 5 (49 USC 1654 *et seq.*); and Single Audit Act of 1984
- Localities must do their purchasing of goods and services, including professional services, in accordance with the Virginia Public Procurement Act or adopt alternative provisions based on competitive principles. Towns having a population of fewer than 3,500 are exempt from most provisions of the Act. (1982)
Source: *Code of Virginia* § 11-35 *et seq.*

Finance

- Local governments must submit a plan of refunding to the State Council on Local Debt and receive approval from the council prior to selling bonds to advance refund other bonds previously issued. Department of the Treasury (1958)
Source: *Code of Virginia* § 15.1-227.46

● Compulsory Orders ⊕ Conditions of State & Federal Financial Aid ○ State & Federal Regulation of Optional Activities

- Local governments participating in any Virginia Public School Authority pooled financing are required to invest the proceeds from the sale of their school bonds in the Virginia State Non-Arbitrage Program. Department of the Treasury (1990)
Source: *Code of Virginia* 22.1-171 (A)(5) and Virginia Public School Authority General Pooled Bond Policy
- Local governments that issue general obligation bonds and sell such bonds to the Virginia Public School Authority are required to adhere to all requirements, limitations, and mandates described in the Internal Revenue Code of 1986, as amended, and any regulations issued by the U.S. Treasury pertaining thereto. Department of the Treasury (1986)
Source: Internal Revenue Code Sections 144-149; Internal Revenue Code Section 103; and applicable U.S. Treasury regulations
- Any local government, political subdivision, or other instrumentality of the Commonwealth with the power to issue bonds shall report to the State treasurer promptly after the issuance of bonds (i) a copy of any report concerning the issuance of bonds required to be file with the United States internal revenue service or (ii) such other report as shall be prescribed by the State treasurer. Department of the Treasury (1988)
Source: *Code of Virginia* § 15.1-227.5

Taxation

- The commissioner of the revenue must provide taxpayer assistance necessary for the preparation of any return required to be filed with his or her office or as directed by the tax commissioner. Department of Taxation (prior to 1950)
Source: *Code of Virginia* §§ 58.1-202 and 58.1-3108
- Local assessing officers must record and make available to the tax commissioner data necessary to conduct an annual assessment sales ratio study. Upon publication, the local assessing officer must post a copy of the study in his or her office. Department of Taxation (prior to 1950)
Source: *Code of Virginia* §§ 58.1-207 and 58.1-208
- Cities and counties must obtain income and fiduciary tax returns, audit the returns, make any necessary assessments, deposit any tax due payments, and forward the returns to the Department of Taxation. Department of Taxation (prior to 1950)
Source: *Code of Virginia* §§ 58.1-305, 58.1-307, 58.1-382, and 58.1-3107
- Certain individuals, trusts, and estates must file a declaration of estimated tax with the commissioner of the revenue and make necessary payments to the treasurer. The commissioner of the revenue and treasurer are required to record the payment

information daily and submit the information to the Department of Taxation. Department of Taxation (prior to 1950)

Source: *Code of Virginia* §§ 58.1-493 through 58.1-495

- Clerks of the circuit court for each city and county must collect and deposit recordation taxes and taxes on wills. Department of Taxation (prior to 1950)

Source: *Code of Virginia* §§ 58.1-803, 58.1-1714, 58.1-3803, and 58.1-3807

- Each treasurer shall deposit promptly upon receipt all State moneys collected or received from all sources directly into the account of the State treasury without any deduction and make a statement of all State revenue collected by him or her since the last report to the comptroller. Department of the Treasury (prior to 1950)

Source: *Code of Virginia* §§ 58.1-3168 and 2.1-198

- Cities and counties must reassess real estate at certain intervals. The intervals are determined by the locality type and the population of the locality. Local governments must assess real estate at 100 percent fair market value. Department of Taxation (prior to 1950)

Source: *Code of Virginia* §§ 58.1-3168, 58.1-3256, and 58.1-3270 through 58.1-3276

- County, city, or town assessing officers must make and maintain an inventory and assessment of all tax-exempt real property and all property immune from real estate taxation. A total of assessed valuations and a computation of the percentage of the exempt and immune property to all property assessed must be published annually and a copy must be filed with the Department of Taxation. Department of Taxation (prior to 1950)

Source: *Code of Virginia* § 58.1-3604

- Localities must provide notice by mail to each property owner of any reassessment of real estate, or of any change in the assessed value of any real estate. (1973)

Source: *Code of Virginia* § 58.1-3330 *et seq.*

- The Disposition of Unclaimed Property Act requires the State treasurer to identify, collect, and return property that has been held for specified dormancy periods to rightful owners. Local treasurers, directors of finance, clerks of court, general receivers, or any other local government entity holding property for unlocatable owners, are required to report and remit this property to the administrator by November 1 of each year. Department of the Treasury (1961)

Source: *Code of Virginia* §§ 55-210.1 through 55-210.30

- Local treasurers, directors of finance, or other designated local officials are required to report to the appointed escheator (and State Treasurer), properties that appear

to be abandoned on his or her records as of the end of the calendar year by May 31 of each year. The report shall be certified as to its accuracy by the commissioner of revenue or designated local official prior to the May 31 submission date. Following the auction of the property, the local treasurer or designated local official is required to request the delinquent taxes on each parcel sold. In the instance of improper escheat, the commissioner of revenue or other designated local official is required to certify this fact. Department of the Treasury

Source: Article VIII, Section 8 of the *Virginia Constitution*; *Code of Virginia* §§ 55-168 through 55-201.1; and Department of the Treasury regulation VR 640-04-1

Other

- The salaries, expenses, allowances, and office equipment of constitutional officers (except sheriffs) shall be paid for in full by all counties and cities and the State shall reimburse the counties and cities for their proportional share. (1976)

Source: *Code of Virginia* §§ 14.1-63 through 14.1-65

- Local governments are required to review non-local government applicants for federal funding.

Source: Federal Executive Order 12372

Appendix A:
House Bill 2146 (1993)

(Virginia Acts of Assembly - Chapter 723)

**An Act to amend and reenact § 15.1-945.3 of the Code of Virginia, relating to the
Commission on Local Government.**

Approved March 28, 1993

Be it enacted by the General Assembly of Virginia:

1. That § 15.1-945.3 of the Code of Virginia is amended and reenacted as follows:

§15.1-9.4. General powers and duties of Commission.--The Commission shall have the following general powers and duties.

1. To make regulations, including rules of procedure for the conducting of hearings;

2. To keep a record of its proceedings and to be responsible for the custody and preservation of its papers and documents;

3. To serve as a mediator between local governments;

4. To investigate, analyze, and make findings of fact, as directed by law, as to the probable effect on the people residing in any area of the Commonwealth of any proposed action in that area:

a. To annex territory,

b. To be declared immune from annexation,

c. To establish a town or independent city,

d. To settle or adjust boundary disputes among local governments,

e. To make a transition from city status to town status,

f. To make a transition from a county to a city,

g. To consolidate two or more local governments into a single city, or

h. To enter into economic growth-sharing agreements among local governments.

5. To control investigations, analyses and determinations, in the sole discretion of the Commission, for the guidance of local governments in the conduct of their affairs upon the request of such local governments; and

6. *To prepare and annually update a catalog of state and federal mandates imposed on local governments including where available a summary of the fiscal impact on local governments of all new mandates. All departments, agencies of government, and all local governmental units of the Commonwealth are directed to make available such information and assistance as the Commission may request in maintaining the catalog; and*

~~6.~~ 7. To perform such other duties as may be imposed upon it, from time to time, by law.

Appendix B:

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