

City of Alexandria, Virginia

MEMORANDUM

DATE: OCTOBER 19, 2010
TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL
FROM: JAMES K. HARTMANN, CITY MANAGER *J*
SUBJECT: PROPOSED CITY LEGISLATIVE PACKAGE FOR THE 2011 GENERAL ASSEMBLY SESSION

ISSUE: Consideration of proposed City Legislative Package for the 2011 General Assembly Session.

RECOMMENDATION: That City Council:

- (1) Receive the proposals for the City's 2011 Legislative Package, as recommended by Council's Legislative Subcommittee and included in Attachment 1;
- (2) Schedule the legislative package proposals, including proposed Charter amendments, for public hearing on Saturday, November 13; and
- (3) Schedule adoption of the Legislative Package for Tuesday, November 23.

DISCUSSION: Council's Legislative Subcommittee met with the General Assembly delegation on September 28 to discuss the preliminary legislative package. For the past several months, staff has been working with Council members, City departments, and boards and commissions to develop legislative and funding proposals for the City's 2011 Legislative Package. Nineteen such proposals are described in Attachment 1; all have been recommended by Council's Legislative Subcommittee for your consideration. Section A contains three legislative proposals recommended for introduction by our delegation; Section B consists of ten legislative proposals recommended for support by the City; and Section C includes six proposals which the Subcommittee recommends that the City oppose. A Work Session with the City's Legislative Delegation will be held at 5:30 p.m. in the Council Work Room before Council's November 9 legislative meeting.

The 2011 General Assembly Session will be a “short” 46-day Session, beginning January 12, and ending February 26. On December 17, 2010, Governor Robert McDonnell will submit his proposed amendments to the budget for the FY 2011-2012 biennium. Staff will report on the Governor’s proposed amendments shortly after they are announced. While no specific issue has emerged that will predominate during the Session, fiscal issues certainly will receive a great deal of attention. Shortly after the regular session ends, the General Assembly likely will likely return for a Special Session on redistricting (the City will have to redraw precinct boundaries and school board districts during the coming year).

Legislative Director Bernard Caton will represent the City in Richmond again this year, and we will report to you regularly on the status of legislative and budget issues that arise during the 2011 General Assembly Session.

ATTACHMENTS:

Attachment 1 – City of Alexandria 2011 Potential Legislative Package Proposals

Attachment 2—Public Health Commission Resolution in Support of Increased Tobacco Taxes

Attachment 3—CSB Letter in Support of Increased Tobacco Taxes

STAFF: Bernard Caton, Legislative Director

Attachment 1

2011 GENERAL ASSEMBLY SESSION: RECOMMENDED CITY PACKAGE ITEMS

A. Legislation to introduce

1. **Unfinished Buildings (Councilman Krupicka).** Various statutes allow localities to take action against property owners who allow their properties to become blighted. Unfortunately, these laws, as written, don't always allow localities to do anything about properties that are left unfinished after construction or rehabilitation has begun. Such properties are an eyesore to neighbors, and can lower the value of neighboring properties.

Councilman Krupicka has asked that the City seek legislation to broaden the laws dealing with building permits issued for repairs or renovation to require timely completion of the work. If an owner in such a case fails to complete the work once directed to do so by the locality, the locality should be able to either use the assets of the owner to fund corrective action, or recover the locality's costs on a priority basis in the same manner as unpaid taxes.

2. **VASAP.** The Virginia Alcohol Safety Action Program (VASAP) was begun in the 1970's, largely in response to federal highway safety legislation. Among its responsibilities are assisting law enforcement and the courts in enforcing DUI laws, and informing the public of the dangers of drinking and driving. Local alcohol safety action programs work with individual DUI offenders (who are assigned to the program by the courts) to determine the appropriate education and/or treatment services they need; the local programs then supervise each case to ensure that probation requirements are fulfilled. These local programs follow procedures established by VASAP.

The local services (which include an intensive education component), as well as the State program, are paid for solely with participant fees and grants. These fees and grants cover personnel and all other program costs (e.g., rent, utilities, etc.). The State Code sets the level of basic participant fees at \$250 to \$300 (apparently the State VASAP Commission determines whether the local program charges \$250, \$300, or something in between). This fee has not been increased since at least 1993. Alexandria has a revenue surplus in this program from prior years, but it is quickly dwindling. The program will not sustain itself in another couple years.

The City that the State Code be amended to authorize localities, under guidelines set by the State VASAP program, to set participant fees sufficient to fund the program's costs.

3. **Increased Tobacco Taxes (Public Health Advisory Commission and Community Services Board).** At 30 cents per pack, Virginia charges the second lowest excise tax on cigarettes in the country (the average tax per pack in the United States is \$1.45).

The Public Health Advisory Commission and the Community Services Board have recommended that the City ask its delegation to introduce legislation to significantly increase the excise tax on cigarettes (e.g., by \$1 per pack). They also recommend that a portion of any new revenues be used for programs to prevent and curb the use of tobacco among all age groups.

Those recommending this increased tax believe that it will discourage young people from starting to smoke, reduce tobacco product consumption overall, and increase the likelihood that a person wanting to quit will be successful. In addition to the health benefits, and the minors who would not take up smoking, the Commission and Board estimate that an additional \$1/pack tax will yield \$317 million in new annual revenues for Virginia.

The City tax on cigarettes is currently 80 cents per pack.

A resolution from the Commission, and a letter from the Board, are attached.

B. Legislation to support

1. **VRS (Councilman Krupicka).** Various members of City Council have expressed concerns over the underfunding of the Virginia Retirement System, particularly as it applies to local teachers (other local employees are in programs that tend to be fully funded). The General Assembly should provide appropriate appropriations to VRS, and refrain from the practice of underfunding retirement rates.

2. **LEEDS Construction--State Buildings (Environmental Policy Commission).** The Environmental Policy Commission asks that the City continue to support the passage of legislation similar to SB 109 (2009), if reintroduced. This bill would have required state agencies constructing any building greater than 5,000 square feet, or renovating a building of that size where the cost of renovation would have exceeded 50 percent of the building's value, to build to standards as stringent as either Green Globes standard or LEED. Buildings should also be designed to achieve certain energy and potable water use savings. Exemptions could be granted by the state Department of General Services upon a finding of special circumstances that make the use of these standards impracticable. SB 109 was passed by the Senate but defeated in the House Appropriations Committee. Delegate Ebbin has carried similar legislation in the past.

3. **Restoration of Voting Rights for Felons (Alexandria Human Rights Commission).** Under Virginia law, any person convicted of a felony forfeits certain civil rights for life, including the right to vote. The Virginia Constitution reserves to the Governor the power to restore these rights. Virginia's process for restoring rights has traditionally been one of the most restrictive in the nation.

Last Session the City resumed its previous position supporting legislation to allow for the restoration of civil rights to certain felons. During the Warner and Kaine years, the process for restoration was improved significantly by Executive Order, so the City did not want to focus attention on this issue. The General Assembly has failed to pass any such legislation or a constitutional amendment. Several constitutional amendments were introduced last session. At least one bill was continued until 2011. Governor McDonnell addressed the restoration of voting rights after he assumed office and pledged to streamline the process even more. Although it appeared that the Governor would add a writing requirement, he later made it voluntary.

The Alexandria Human Rights Commission (AHRC) asks the City to support the restoration of voting rights to ex-felons, either by statute or a Constitutional amendment that automatically restores voting rights upon completion of a felon's sentence.

4. **Voting Rights and Election Laws (Alexandria Human Rights Commission).** The AHRC recommends that the City support legislation to allow unrestricted early voting.

5. Statutory Protection Against Employment Discrimination for State Employees (Alexandria Human Rights Commission). The AHRC recommends that the City continue to support legislation like that introduced by Delegate Ebbin in 2009 (HB 1116), which would prohibit workplace discrimination against State employees. Although the bill attracted many co-sponsors, including the entire Alexandria delegation, it was not passed.

City Council passed a resolution unanimously on June 23, 2009, supporting the right of all public employees to be free from discrimination in the workplace. The Virginia Association for Human Rights at its 2008 annual meeting passed a resolution calling upon the General Assembly to “pass legislation codifying the basic human right of all public employees to be free from discrimination in the workplace based on race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, status as a special disabled veteran or other veteran covered by the Vietnam Era Veterans Readjustment Act of 1974, as amended, and sexual orientation, including gender identity.”

Survey research by the Equality Virginia Education Fund shows that more than 90 per cent of Virginians support the right of gay, lesbian, bisexual and transgender citizens to work for the government without discrimination. In the increasingly competitive and diverse workforce and economy, recruiting and retaining the best public employees requires the Commonwealth of Virginia to be as attractive an opportunity as possible. Private businesses have already recognized the competitive advantage afforded by offering progressive employment practices; 94 per cent of Fortune 500 companies have non-discrimination policies protecting employees on the basis of sexual orientation and many include gender identity.

6. Virginia Human Rights Act/Virginia Council on Human Rights (Alexandria Human Rights Commission). The AHRC generally supports amending the Virginia Human Rights Act to increase the authority of the Virginia Council on Human Rights and, therefore, the authority of local agencies that enforce anti-discrimination laws. Previous bills that would have established an independent Civil Rights Commission in Virginia, stronger than the current Virginia Council on Human Rights, failed. Similarly, bills that would have increased the powers of the Virginia Council or expanded human rights protections failed. Views vary on how to draft a bill that will pass. The AHRC believes adding one power such as subpoena power, to compel a respondent in a discrimination case to provide documents or access to employees for interviews, is a realistic approach.

The AHRC recommends that the City support legislation that would expand remedies available to victims of discrimination and expanding the investigatory or enforcement powers of state or local agencies that relate to eliminating discrimination, and oppose legislation that would eliminate or weaken the state agency or any local agency empowered to investigate, prevent or remedy unlawful discrimination.

7. Predatory Lending. In 2002, the General Assembly passed legislation authorizing payday loans. A "payday loan" is a transaction where the lender loans a borrower money, with its payment shortly after the loan is made—often at the time of the borrower’s next pay day. Following passage of this legislation, payday loan locations appeared throughout the Commonwealth. The legislation authorizing pay day loans did not cap interest rates on these loans, and most of the businesses charged interest rates of several hundred percent annually.

Legislation passed in 2008 put limits on the interest and loan origination fees that could be charged, and placed additional restrictions on lenders. 2010 legislation placed limits on motor vehicle title loans, which are loans secured by an interest in a motor vehicle.

Even with the limits enacted in 2008 and 2010, borrowers can face exorbitant costs in order to receive these loans. The Alexandria Human Rights Commission (AHRC) recommends that the City support efforts to reduce the interest rates that can be charged for pay day and car title loans.

8. NVAN platform (Commission on Aging). The Alexandria Commission on Aging recognizes that the Commonwealth continues to experience revenue shortfalls. As additional funding becomes available, however, the Commission recommends that the City support the following proposals from the Northern Virginia Aging Network (NVAN).

- Ensure that the Governor’s Commission on Government Reform and Restructuring protects and promotes quality services for older adults and people with disabilities.
- Support services that keep older adults and people with disabilities in their homes and communities through: (1) maintaining and enhancing Area Agency on Aging funds for nutrition, transportation and in-home care; and (2) exploring options to strengthen community support for older Virginians under the federal Patient Protection and Affordable Care Act.
- Build a Quality Long-Term Care Workforce. In order to build a quality, cost-effective work force that will help Virginia's older adults and people with disabilities remain in their homes and communities, increase Medicaid reimbursement rates for personal care services by 10 per cent.
- Provide supplemental funds for RAFT (The Regional Older Adult Mental Health Facility Team). Provide funds for this intensive and highly cost-effective program, which helps prevent hospitalizations and reduces lengths of stay in state psychiatric hospitals. This would assist an increased number of older adults with severe mental illness or dementia.
- Provide Access to Respite for Virginia’s Caregivers: Support the creation of a statewide Provider Registry so that Virginia’s caregivers can more easily access back-up respite care.
- Combat Financial Exploitation. Support mechanisms to protect older adults from financial exploitation. In Virginia, 15,625 cases of adult abuse, neglect, and exploitation were reported in FY 2009, and over 3,000 of those were in Northern Virginia. In FY 2008, Virginia Adult Protective Services substantiated 756 cases of financial exploitation, defined as “the mishandling, fraud, or theft of income, money, accounts, assets, or property by another person.” We know that this number represents only the tip of the iceberg. The National Center on Elder Abuse estimates that for every case reported to authorities, five go unreported.

The General Assembly has begun to address this issue. SJR 45 (2010) “[Encourages] the Department of Social Services to work together with public and private partners to conduct a comprehensive public awareness and education program on the identification, prevention, and reporting of abuse, neglect, and exploitation of adults and children who have a disability.” This is an important first step. Carried over from last session was SB 556 (Herring), which would significantly increase the penalties for anyone who committed such crimes against older adults.

NVAN urges the General Assembly to pass this, and other such measures, which would further protect older adults from financial exploitation.

9. Transportation Funding, including Revenue Sharing (Northern Virginia position)

The City of Alexandria and other Northern Virginia jurisdictions (as well as localities statewide) continue to seek additional funding for transportation. Revenues from all major transportation funding sources continue to deteriorate, yet needs continue to rise. New funding must cover major transit needs, as well as road construction and maintenance. Any funding source must continue to include dedicated revenue needed to meet federal match requirements for the Washington Metropolitan Area Transit Authority. Finally, any new transportation funding must not be taken from traditional core service funding programs, such as education and public safety.

The City also supports the continuation and expansion of the Virginia Department of Transportation's revenue sharing program. This program allows localities to match state funding with local funding to make crucial improvements to the locality's street and highway system. The City has used revenue sharing funds to reconstruct a portion of Edsall Road.

10. State Budget & Local Revenues/State Structural Imbalance (Northern Virginia and VML position)

In order to balance the state budget in recent years, the State has adopted a number of unusual and sometimes questionable practices. Some of these will no longer be available in the near future (e.g., stimulus funds), and others should be eliminated. Several of those that should be eliminated have an unfair and detrimental effect on local revenues. These include:

- Underfunding the HB 599 Local Law Enforcement program;
- Reducing state funding for shared state/local programs;
- Requiring localities to provide local revenues to the state general fund (currently \$60 million per year statewide, of which Alexandria provides \$1.3 million).
- Requiring local governments to pay the full cost of Line of Duty benefits, a program heretofore established and funded by the General Assembly.

In addition, proposals are being considered that would reduce the ability of localities to raise local revenues (such as the BPOL tax). This has not been accompanied by a reduction in State mandated services that must be provided by localities.

The City supports the following principles on state budget and local revenue issues. The Governor and General Assembly should not:

1. Restrict further local revenue authority or sources.
2. Impose new funding requirements or expand existing ones on services delivered by local governments.
3. Shift state funding responsibilities onto local governments, including law enforcement and public safety activities.
4. Impose state fees, taxes or surcharges on local government services.
5. Place additional administrative burdens on local governments.

C. Legislation to oppose

1. **Local Business Tax Reform Policy: BPOL and Machinery and Tools Tax (VML position).** Alexandria supports the continuation of local government tax authority and encourages the study of revenue-neutral or enhanced local tax authority. Until a thorough study is completed, the City continues to oppose efforts to limit local government taxing authority, including Business, Professional and Occupational License (BPOL) tax and Machinery and Tools (M&T) tax. The burden of taxation, as well as the benefits of services, should be shared and enjoyed by all whether they are residents or local businesses.

2. **Education Funding (Northern Virginia and VML position).** The State has a constitutional duty to meet its education funding obligations. Alexandria supports full funding of state education programs including the Standards of Quality, incentive, categorical, and school facilities programs. The City opposes changes in methodology or the division of financial responsibility that result in a shift of funding responsibility from the state to localities, such as funding for State-mandated benefits for school employees. The City opposes policies that lower state contributions to education under the Standards of Quality or other programs, including the Northern Virginia Cost of Competing. The State should not continue to maintain and increase educational requirements while at the same time decreasing state funding.

3. **Issues Related to the Privatization of ABC Sales.** The City has taken no position for or against privatizing the State's liquor stores. If privatization does occur, however, the City opposes any portion of such legislation that would limit the City's zoning authority over stores selling hard liquor. In addition, any such businesses should be treated the same as other retail establishments with respect to the payment of local taxes (e.g., BPOL and sales taxes).

4. **Pre-trial Release Program.** Attempts were made by bail bondsmen in the 2010 Session to limit those eligible for pre-trial release (with or without bond), and similar legislation may be introduced in 2011. The City and other localities opposed this in 2010 because it would cost them additional money (more people would be kept in jail prior to trial) without increasing the public's safety. In fact, since pre-trial units provide supervision, drug testing, etc., limiting or ending pre-trial programs may reduce public safety. The Legislative Subcommittee recommends that the City continue to oppose legislation that would put restrictions on the use of pre-trial release programs.

5. **Legislation Related to Immigration (Alexandria Human Rights Commission).** The City of Alexandria upholds all federal and state laws with respect to illegal immigration.

In 2007 and 2008, the Virginia Crime Commission and the Governor's Commission on Immigration Reform both studied issues relating to illegal immigration, and measures that could be enacted at the state level to deal with these issues. Both commissions concluded that most changes with respect to immigration law and policy must come at the federal level, since this is a federal issue over which the states have little control or authority.

In 2010, the State of Arizona enacted legislation that includes provisions that have been rejected by one or both commissions, or by the General Assembly. Some individuals in Virginia have promised to have legislation introduced in Virginia in 2011 that is similar to the Arizona legislation. The Human Rights Commission recommends that the City ask its delegation to

oppose such legislation, as well as other legislation relating to immigration that the City has opposed in recent years (e.g., requiring local law enforcement officials to enforce federal immigration laws).

6. Undocumented Students (Alexandria Human Rights Commission). The AHRC recommends that the City maintain its position opposing any legislative proposal that would restrict access to higher education by undocumented persons, unless it includes safeguards such as those proposed by Governor Warner as amendments to a restrictive bill in 2003 (e.g. residency in Virginia during high school and at least 5 years prior to graduation; graduation from a Virginia high school; ongoing pursuit of permanent residency in the U.S.; and family payment of Virginia income taxes for at least three years prior to college enrollment).

**RESOLUTION TO INCREASE THE TOBACCO EXCISE TAX
IN THE COMMONWEALTH OF VIRGINIA**

Sponsor: Alexandria Public Health Advisory Commission (APHAC)
Supporters: Community Services Board (9/21/2010)
Partnership for a Healthier Alexandria (9/20/2010)
Substance Abuse Prevention Coalition of Alexandria (9/20/2010)

WHEREAS cigarette smoking is the leading preventable cause of death in the United States, and

WHEREAS the public health and economic cost of smoking in the Commonwealth makes it an urgent area for legislative, regulatory and programmatic attention as evidence by:

- 981,000 Adults in Virginia who smoke
- 66,400 High school students in Virginia who smoke
- 9,200 Deaths caused by smoking in Virginia, per year
- \$ 2.08 billion Annual health care costs in Virginia that are caused by smoking
- \$ 2.53 billion Annual smoking-caused productivity lost in Virginia¹, and

WHEREAS increasing tobacco product taxes is shown by researchers to discourage young people from starting to smoke, reduce tobacco product consumption overall, and increase the likelihood that a person wanting to quit will be successful, and

WHEREAS Virginia charges the second lowest excise tax (30¢/pack) in the U.S. where the average taxation rate is \$1.45/pack, and

WHEREAS a \$1.00 excise tax increase would yield many positive and long-lasting benefits:

- \$317 million New annual revenues for Virginia
- 65,000 Kids who avoid becoming addicted smokers
- 29,800 Lives saved from premature smoked-caused death
- 15.6% Percent decrease in youth smoking
- 34,000 Current smokers who would quit

THEREFORE, LET IT BE RESOLVED that the Alexandria City Council commend to its 2011 legislative delegation a recommendation to significantly increase the Commonwealth of Virginia tobacco product excise tax, with a portion of the increased revenues invested in preventing and curbing the use of tobacco among all age groups.

Contact Information:

1. Richard Merritt, Co-chair, Alexandria Public Health Advisory Commission
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2. Jerome Cordts, Chair, Alexandria Public Health Advisory Commission
 - a. Email: Jcordts@mitre.org Phone: (703) 975-7040

¹ Source – Campaign for Tobacco-Free Kids



ALEXANDRIA COMMUNITY SERVICES BOARD

Promoting Respect, Recovery, Hope



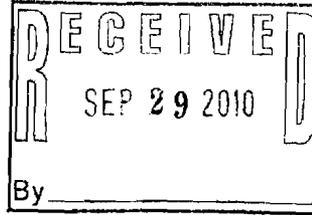
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September 28, 2010

Bernard Caton, Legislative Director
City of Alexandria
301 King Street, Room 3400
Alexandria, VA 22314



Dear Bernie:

As City Council begins to put together a list of legislative priorities they plan to discuss with Alexandria's legislative delegation before the 2011 session, we would like to suggest a new source of revenue for badly-needed human services. We know that state funds continue to be in short supply and we also know the needs of the people we serve are increasing.

So the Alexandria Community Services Board would like to join with the Alexandria Public Health Advisory Commission in strongly urging City Council to ask our state delegation to support a significant increase in the state tobacco tax. By significant we mean a \$1 cigarette tax increase that would bring \$317 million in new annual revenue to the Commonwealth. In addition we ask that at least half of the new revenues be used to fund best-practices prevention efforts and treatment for addiction and other mental illnesses.

In other states where the cost of tobacco has increased due to taxes, research shows that fewer young people begin smoking, tobacco consumption in general is reduced and those already smoking increase their attempts to quit smoking.

Here in Virginia, according to the figures provided by the Campaign for Tobacco Free Kids, 981,000 adults currently smoke along with 66,400 high school students. Deaths attributed to smoking are 9,200 each year. With an increase in taxes, 65,000 young people would be kept from being addicted smokers, and an estimated 34,000 currently adult smokers would quit.

As to the economic burdens imposed by smoking, anyone with eyes to see can notice the lost productivity in employees standing around outside to smoke. The hard numbers, according to figures provided by the Campaign for Tobacco-Free Kids, is that Virginia loses \$2.53 billion in smoking-caused productivity costs. The annual health care costs directly caused by smoking are \$2.08 billion.

For all these reasons and, most importantly, for the physical and mental health of our citizens, we urge City Council to support a substantial increase in the tobacco tax.

Sincerely,

Mary Anne Weber
Mary Anne Weber