

HAMPTON ROADS PLANNING DISTRICT COMMISSION 2013 LEGISLATIVE AGENDA

In preparation for the 2013 Session of the Virginia General Assembly, the staff of the Hampton Roads Planning District Commission has developed this 2013 Legislative Agenda. It outlines, based on ongoing HRPDC projects, prior HRPDC legislative positions and work of the region's localities, a series of issues that warrant regional attention during the upcoming legislative session. It also provides a recommendation or recommendations addressing each of the issues for consideration by the HRPDC.

Virginia Housing Trust Fund

Housing trust funds are distinct funds established by city, county, or state governments that receive ongoing dedicated sources of public funding to support the preservation and production of affordable housing opportunities for families and individuals to access decent affordable housing. Several local and state organizations are advocating for the creation of a state housing trust fund. Governor McDonnell recently announced support of the Housing Trust Fund as a resource to decrease homelessness by fifteen percent by 2013. The Housing Trust Fund was initially funded during 2012. The HRPDC supports continued funding in order to sustain the Virginia Housing Trust Fund as a vehicle for producing affordable housing opportunities.

Emergency Management Funding

The frequent occurrence of natural disasters affecting the Hampton Roads has stretched the budgets and capacity of local emergency managers. HRPDC supports Virginia Emergency Management Association's intention to propose the establishment of a dedicated funding stream for emergency management to provide adequate funding.

Emergency Planning

HRPDC supports legislation, proposed previously by the Virginia Emergency Management Association, requiring development and certification of emergency plans for nursing homes, assisted living facilities, adult day care centers, and child day centers.

State Support for Readily Deployable Assets

The HRPDC supports efforts to provide liability coverage, hold harmless, and workers compensation to emergency responders. Additionally, the HRPDC supports the use of State resources for sustaining and replacing used/damaged equipment and supplies for the Hampton Roads Medical Metropolitan System Team (HRMMST), Hampton Roads Incident Management Team (HRIMT), and other regional readily deployable assets, without activating the State Mutual Aid agreement and/or obtaining a federal emergency declaration.

Stormwater Management Program

In 2012, the General Assembly passed HB1065/SB407 that integrated the Erosion and Sediment Control Act, Chesapeake Bay Preservation Act, Virginia Stormwater Management Act and expanded the requirement to administer a qualified local program to all localities within the Commonwealth. While the HRPDC supported the intent of these Bills, their implementation has created confusion at the local level and identified inconsistencies in language. The HRPDC supports continued revision of the integrated stormwater management laws to provide clarity and consistency.

Specifically, the HRPDC supports revising the Stormwater Management Act to allow localities to require that Pollution Prevention Plans be submitted by a developer when seeking a Virginia Stormwater Management Program Permit for construction activity. The locality needs the opportunity to review the Plan prior to the commencement of construction activity in order to properly enforce the Plan during site inspections.

HRPDC also supports amending the Stormwater Management Act to provide localities required to adopt VSMP for land-disturbing activities with the authorities necessary to implement and enforce the provisions of 10.1-603.3 and associated regulations, including the Virginia Stormwater Management Program (VSMP) General Permit for Discharges of Stormwater from Construction Activities. Localities may need explicit authority to conduct post construction inspection of stormwater BMPs on properties outside of MS4 permit boundaries.

Based on the work of the Governor's Commission on Government Reform and Restructuring, the 2012 General Assembly approved moving the Municipal Separate Storm Sewer System (MS4) Permit Program from the Department of Conservation and Recreation to the Department of Environmental Quality following and administration review to evaluate moving the all water quality permitting programs. This proposal follows the recent efforts by the Department of Conservation and Recreation to reorganize and better integrate the stormwater programs. The full impact of this proposal on the region's localities is not clear, but the HRPDC is concerned that it may cause additional confusion and delays in the implementation of stormwater and water quality management programs in Virginia. The HRPDC will continue to monitor and evaluate this proposal.

Expansion of the Nutrient Credit Exchange Program

In 2012, the General Assembly directed the Soil and Water Conservation Board to adopt regulations for to establish statewide procedures for the certification of nutrient credits other than those generated by waste water point sources or certified by the State Water Control Board. HRPDC supported this action as it will allow the certification of credits generated by urban stormwater improvements and plans to actively participate in the development of these regulations. Due to the development of these regulations the HRPDC does not anticipate that any nutrient trading legislation will be proposed during the 2013 session. However, we continue to advocate for a nutrient trading program that protects

local water quality and allows localities the authority to review any trading proposed within their jurisdiction.

Water Quality Funding

Virginia's local governments face mounting costs for water quality improvements for sewage treatment plants, urban stormwater, combined sewer overflows (CSOs), and sanitary sewer overflows (SSOs). In response to federal and state legislation, regulation and policies, the federal government and the Commonwealth should provide adequate funding for these water quality improvements.

The HRPDC urges the General Assembly to maintain its commitment to water quality through dedicated and adequate state appropriations to the Water Quality Improvement Fund and to make full and timely payments under point source upgrade contracts with local governments. Concurrently, the General Assembly should address costs associated with the permit requirements of Municipal Separate Storm Sewer Systems (MS4) Permits, associated new EPA regulations and the Chesapeake Bay TMDL and Virginia Watershed Implementation Plan.

VDOT Requirements for Locality-owned Drainage Easements

VDOT has recently determined that drainage easements that convey runoff from the State maintained roadways must be owned by the locality. In counties, the secondary highway system, including streets developed for subdivisions and accepted into the secondary system, are County roads for which VDOT has operational control. If the locality will not accept the drainage easements, then VDOT will not accept maintenance responsibilities for these roads. Localities currently require homeowners associations to own the drainage easements and sign a maintenance agreement with the locality. VDOT is unnecessarily burdening localities with additional maintenance responsibilities.

Uranium Mining

Prior to the 2012 Session of the General Assembly, the HRPDC requested that the General Assembly maintain the moratorium on uranium mining or the consideration of such, until at least the 2013 General Assembly session. The HRPDC further requested that the General Assembly direct the Department of Mines, Minerals, and Energy to not pursue development of regulations for uranium mining until after completion of and full consideration of the studies, which are presently underway.

In September 2012, the HRPDC adopted Resolution 2012-02 reaffirming its opposition to uranium mining and to the lifting of moratorium on uranium mining. Based on review of the several scientific studies that have been completed and the ongoing work of the state's Uranium Mining Work Group, the HRPDC does not believe that an adequate regulatory framework to address mining operations and waste disposal is either in place or likely to be developed and funded. The Hampton Roads region is dependent upon water from Lake Gaston as an integral component of the region's water supply. A catastrophic incident

associated with uranium mining upstream from Lake Gaston, while of small probability, would result in enormous and unacceptable adverse consequences to this region.

Advertising of Required Public Notices

Many provisions of the Code of Virginia require the advertising of public notices in a “newspaper published or having general circulation in the locality.” As newspaper circulation continues to decline and citizens look increasingly to the internet for news and information, it appears that alternative means of providing public notice would be appropriate. Increasingly, state agencies are using their websites and other electronic media to handle public notice requirements. The HRPDC supports legislation that would allow local governments, planning district commissions and other regional agencies to publish legal advertisements and public notices on their website and to use other media outlets, such as local public access channels, in order to meet legislative requirements for public notices.

Federal Facilities

The Hampton Roads region relies significantly on the defense industry. Two proposals are moving forward from Hampton Roads localities to enhance state support for the industry and for protection of existing facilities. To assist its member localities to ensure the continued viability of the defense industry in Hampton Roads, the HRPDC supports proposals to:

- Maintain state funding for the land acquisition program supporting mitigation of encroachment around NAS Oceana.
- Provide state funding for the land acquisition program supporting mitigation of encroachment around Langley Air Force Base (now Joint Base Langley-Fort Eustis).
- Amend legislation governing the Federal Action Contingency Trust (FACT) Fund to clarify that such funds are to be used to encourage business growth and protect existing military resources and use of these funds is not contingent upon a new Base Realignment and Closure (BRAC) or BRAC-like action.

Recycling Requirements

Each locality in the Commonwealth, individually or through a regional collaboration, is required to achieve a 25% recycling rate. A key constraint to local ability to achieve or exceed this recycling rate has been the lack of markets for the materials as well as access to industries that recycle or reuse the material. Recycling is an economic development tool as well as an environmental tool.

Despite increased public awareness of the benefits of recycling, beverage container recycling has been declining in recent years, while the amount of beverage containers that are being sold and consumed has increased over time.

The HRPDC supports legislation that would:

- Grant localities the authority to require certain businesses to recycle glass.
- Prioritize incentives to businesses that recycle materials, such as glass, paper and electronics, while concurrently providing new employment opportunities.

Plastic Bags

Plastic bags that are not properly disposed of contribute to unsightly littering of Virginia's landscape, contaminate various agricultural crops, contribute to mortality of aquatic species and birds and contribute to urban stormwater problems. While voluntary recycling programs and substitution of reusable shopping bags has had some success in reducing the volume of plastic bags that must be disposed of, improper disposal of plastic bags appears to be increasing. In reaction to the problems associated with improper disposal of plastic bags, restrictions on the use of plastic bags by localities throughout the country is becoming more widespread. The HRPDC supports legislation that would provide localities the option of restrictions on the use of plastic bags through increased voluntary programs, incentives, taxes or outright bans.

Septic Tanks

The Chesapeake Bay TMDL establishes limits on the amount of nitrogen, phosphorus, and sediment that can enter the Bay. As part of the effort to meet the nitrogen limits set forth in the TMDL, reductions in the nitrogen load from the onsite sewage system sector must be achieved. Monitoring of septic tank pumpout (once per 5 years), as required by the Chesapeake Bay Preservation Act, should be conducted by the Virginia Department of Health not by localities. The HRPDC supports the following recommendations:

- Seek legislative changes necessary to establish state tax credits for upgrade/replacement of existing conventional systems with nitrogen reducing systems, or connection to existing sewer.
- Look into steps for gaining General Assembly approval to grant all counties the authority to require hook-ups to existing sewer lines when appropriate.
- Develop, in cooperation with state agencies, a legislative proposal to establish a cost share program, similar to what is done with the Agricultural BMP Cost Share Program, to assist with the cost of required upgrades or replacements and incentivize non-failing septic system owners to upgrade to a denitrifying system.
- Amend the Chesapeake Bay Preservation Act to require that regulation and enforcement of septic tank pumpout requirements be conducted by the Virginia Department of Health. Localities would continue to maintain an inventory and tracking system for septic tank locations.

Sea Level Rise and Coastal Flooding

The HRPDC has identified the issue of sea level rise as a critical issue facing Hampton Roads. HRPDC staff studies to date have focused on the magnitude of the problem and its potential implications to the region. Ongoing work is addressing options for adaptation. In 2012, the City of Norfolk, with regional support, requested that the Commonwealth conduct a one-year study to examine the overall effectiveness of current adaptation efforts to address relative sea level rise and coastal flooding in Virginia's shoreline and coastal communities. That study, conducted by the Virginia Institute of Marine Science, in cooperation with coastal localities and planning district commissions, will be presented to the General Assembly prior to the 2013 Session.

The City of Norfolk is requesting that the appropriate natural resource and emergency management agencies of the Commonwealth work in partnership with Virginia's coastal planning districts to oversee the implementation of the 2012 study's recommendations. The HRPDC supports this proposed initiative as the critical next step in addressing the critical coastal flooding issue in Hampton Roads and all of coastal Virginia.

Environmental Education

The HRPDC continues to support passage of federal legislation known as the No Child Left Inside Act of 2009 and companion legislation that may be considered at the state level. This legislation would require each state to develop an environmental literacy plan to include environmental education standards and teacher training, as well as funding to support program development. This legislation would address one of the key findings of the research conducted in Hampton Roads over the past year by HR GREEN. The legislative proposal was endorsed by the HRPDC in November 2010.

Agriculture Programs

HRPDC supports a well-financed and fully staffed state program to address the problem of non-point source runoff from agricultural operations. The program continue to include cost-share assistance to agriculture and should effectively encourage and incentivize implementation of priority best management practices such as nutrient management planning, use of cover crops, continuous no-till farming, development of forested riparian buffers, livestock stream exclusion and other practices essential to meeting agriculture's share of the Chesapeake Bay TMDL and Virginia Watershed Implementation Plan.

Expand Authority for Tree Canopy Requirements

HRPDC supports the amendment of Virginia Code Section 15.2-961.1 that would enable all Virginia localities to adopt an ordinance containing a set of tree canopy preservation requirements based on development density. Section 15.2-961.1 was adopted during the 2008 General Assembly session and is currently applicable only to the localities within Planning District Eight. Increasing the urban tree canopy is an inexpensive method to

reduce nutrient loading through runoff reduction and will allow localities to reduce the cost of achieving nutrient reductions for urban stormwater.

Restoration of Funding to PDCs

In FY 2001, HRPDC received \$366,628 or \$0.24 per capita in basic funding from the Commonwealth's budget through the Department of Housing and Community Development. The legislative agenda of the Virginia Association of Counties supports overall funding of Virginia's Planning District Commissions at a level of \$0.35 per capita or a minimum of \$100,000 per commission, whichever is greater. The Department of Conservation and Recreation (DCR) is relying on PDCs to facilitate the development of locality specific nutrient reductions in Phase II of the State's Watershed Implementation Plan.

HRPDC supports restoration of funding to Virginia's Planning District Commissions at the FY 2001 level of \$0.24 per capita.

Transportation

The HRPDC supports the transportation proposals contained in the Legislative Agenda of the Hampton Roads Transportation Planning Organization.

State Fees on Local Government Services (water, sewer, solid waste)

HRPDC strongly opposes the imposition of a state fee, tax or surcharge on water, sewer, solid waste or any service provided by a local government or authority to finance the nutrient reductions imposed by the Chesapeake Bay TMDL.

Unfunded Mandates

HRPDC opposes unfunded mandates by the Commonwealth. When funding for a mandated program is altered, the mandate should be suspended until full funding is restored. When legislation with a cost to localities is passed by the General Assembly, the cost should be borne by the state, and the legislation should contain a sunset clause providing that the mandate is not binding on localities until funding by the Commonwealth is provided. Furthermore, HRPDC opposes the shifting of fiscal responsibility from the state to localities for existing programs. Any unfunded mandate or shifting of responsibility, such as maintenance of state transportation facilities or litter control, should be accompanied by a full fiscal and program analysis to determine the relative costs to the state and to the locality and to assure the state is meeting its full funding responsibility before taking effect.