

COMMUNITY LEGISLATIVE AGENDA
GENERAL ASSEMBLY SESSION 2009

CITY OF VIRGINIA BEACH



Photograph taken by Steve Budman, 2007

BUILDING “A COMMUNITY FOR A LIFETIME”

MUNICIPAL CENTER BUILDING ONE
2401 COURTHOUSE DRIVE, SUITE 234
VIRGINIA BEACH, VIRGINIA 23456

**2009 COMMUNITY LEGISLATIVE AGENDA
CITY OF VIRGINIA BEACH
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2009 COMMUNITY LEGISLATIVE AGENDA CITY OF VIRGINIA BEACH PREFACE

The 2009 session of the General Assembly will take place during the second year of the Commonwealth's adopted biennium budget; eight months before the statewide elections for Governor, Lieutenant Governor, Attorney General, and all 100 House seats. Despite the impending election, there are important issues that should be addressed. Foremost among these is transportation. When City Council adopted the Legislative Agenda for the 2008 session of the General Assembly, the assumption was that the regional transportation funding issues for the six major projects had been addressed through House Bill 3202 of the 2007 session. City Council had also requested that the State address the statewide funding issues for matching of federal dollars for transportation and funding of urban road projects, and highway maintenance. With the decision by the State's Supreme Court finding most of House Bill 3202 unconstitutional and the General Assembly's failure to address transportation either during the regular session or the special session, the City Council reaffirms its desire that this basic public service be addressed adequately and expeditiously. To put the funding issue in perspective, in 1985 the City received approximately \$6 million a year in urban funding. That increased to almost \$30 million in 2004 and now because of the lack of General Assembly action, will be reduced to less than \$10 million per year in the current six year plan.

With the growth in the transportation system and the impact of inflation taken into consideration it is clear the state funding for transportation is hopelessly inadequate. Furthermore, without the General Assembly addressing the regional needs for the six, and now seven major projects including the Hampton Roads Bridge Tunnel, of those key projects have not moved forward. This means that Route 460, the Southeastern Parkway and Greenbelt, and I-64 on the Peninsula and Southside, as well as the Hampton Roads Third Crossing and the Hampton Roads Bridge Tunnel may have to be removed from the regional long range transportation plan because that plan must be fiscally constrained by Federal law and regulations. The City Council has consistently requested that the General Assembly provide \$275 million a year in ongoing funding through General Assembly action, as well as the ability to toll the major projects. It is likely another that \$40-50 million a year will be needed to supplement the tolls and the Hampton Roads Bridge Tunnel. Furthermore, a major increase in transportation funding to address the shortfall in maintenance funding and to fund the statewide funding program that provides money for urban, secondary and primary roads, as well as transit, should and must be provided.

Education at the K-12 level is a partnership between the Commonwealth and local governments. During the 2008 session of the General Assembly there was a move in the General Assembly to fundamentally upset that partnership by reducing future appropriations to local governments as a result of changing the current standards of quality (SOQ's) and what is included in those standards. The City of Virginia Beach spends almost \$200 million in local tax dollars above what is required to meet the standards of quality. This provides an education for our children to compete in the worldwide market place. Members of the General Assembly label these efforts local aspirations and do not think, for instance, that teacher salary increases given by the Virginia Beach School Board above and beyond that funded by the General Assembly should be part of the cost sharing between the Commonwealth and local government. Furthermore, during a recent meeting of the Joint Legislative Audit and Review Commission (JLARC), it was obvious that at least one member of JLARC, who is also a member of the House Appropriations Committee, wants to cut state funding for the employer share of teacher social security benefits given to teachers. This would be a significant decrease in state funding to education. The General Assembly should instead fully fund the true cost of the standards of quality rather than considering reducing its share of education funding.

Finally, the City Council repeats its request that the State fully fund the true cost of traditional state current government service, court corrections, mental health, public health, etc. Local governments for years have been paying a larger share of these State responsibilities in order to retain employees and provide services to our citizens. The Commonwealth needs to realize that it is under funding these important and basic efforts.

CITY OF VIRGINIA BEACH
2009 REQUESTED CODE OF VIRGINIA CHANGES

1. ARREST OR ISSUANCE OF A SUMMONS BY AN OFFICER BASED ON OBSERVATIONS OF A DIFFERENT OFFICER

*Chief A.M. Jacobs
Department of Police*

Background Information:

The State Code authorizes an officer who has **not** observed a misdemeanor or traffic violation to nevertheless stop and ticket an offender for red light violations and speeding upon receipt of a radio transmission from the officer observing the violation (§ 46.2-833 and § 46.2-882). Present traffic volume, especially in heavily populated jurisdictions, and the way highways are now being constructed, makes it extremely difficult for a single officer to position him or herself and the officer's police vehicle at a place where the officer can both observe infractions and then be able to promptly exit the location in order to stop the violator. While the "team" policing concept has been recognized in other states, it has not been widely accepted in Virginia. We request that the legislature expand the authority granted under § 46.2-833 and § 46.2-882 to include all traffic charges punishable as misdemeanors and all traffic infractions. This would allow officers more flexibility in citing violators by allowing an officer to transmit the violation to another officer who could make the actual stop and issue the summons to the offender for the officer who observed the actual offense.

Additionally, as the technology has become available, more and more police departments are using camera systems to monitor critical, and vulnerable, areas of the community in an effort to suppress criminal activity. Frequently officers monitoring these real-time camera systems observe criminal activity and direct other officers to respond. Unfortunately, the responding officers are usually unable to make any arrests, as they did not observe the original criminal activity. We request that the code be revised to allow officers to make an arrest or issue a summons based on the observations of another officer, regardless of whether observing officer used a camera or similar device to view the conduct.

Request:

§ 19.2-81. Arrest without warrant authorized in certain cases – The following officers shall have the powers of arrest as provided in this section:

1. Members of the State Police force of the Commonwealth,
2. Sheriffs of the various counties and cities, and their deputies,

3. Members of any county police force of any duly constituted police force of any city or town
4. The Commissioner, members and employees of the Marine Resources Commission granted the power of arrest pursuant to § 28.2-900,
5. Regular game wardens appointed pursuant to § 29.1-200,
6. United States Coast Guard and United States Coast Guard Reserve commissioned, warrant, and petty officers authorized under § 29.1-205 to make arrests, and
7. The special policemen of the counties as provided by § 15.2-1737, provided such officers are in uniform, or displaying a badge of office.

Such officers may arrest, without a warrant, any person who commits any crime in the presence of the officer and any person whom he has reasonable grounds or probable cause to suspect of having committed a felony not in his presence.

Such officers also may arrest, without a warrant, any person who commits any misdemeanor or traffic infraction as defined by the State Code, or similar local ordinance, if the officer has received a radio message from another officer who observed the violation with or without the assistance of a camera or similar device. Such radio message shall have been dispatched immediately after the alleged offense was observed and positive identification of the alleged offender is provided to the arresting officer. The arresting officer shall then proceed as if the offense was committed in his presence in accordance with § 19.2-74. If a summons is issued in lieu of an arrest, the names of both the arresting officer and the observing officer shall be included on the summons.

2. AUTHORIZATION FOR AN OFFICER OTHER THAN THE ARRESTING OFFICER TO OBTAIN A WARRANT IN DUI CASES BASED ON THE ARRESTING OFFICER'S OBSERVATIONS

*Chief A.M. Jacocks
Department of Police*

Background Information:

The City requests a legislative change that would enable a police officer to stop and arrest an intoxicated driver and transfer that arrest to another police officer. This change would allow supervisors and specialized officers, such as K-9 and SWAT officers, to remain available. The arresting officer or supervisor would still appear in court to testify. This recommended change is similar to the modification that was made several years ago to allow marine police officers to transfer a boating under the influence violation to another police officer.

Request:

§ [19.2-81](#). **Arrest without warrant authorized in certain cases.** The following officers shall have the powers of arrest as provided in this section:

1. Members of the State Police force of the Commonwealth;
2. Sheriffs of the various counties and cities, and their deputies;
3. Members of any county police force or any duly constituted police force of any city or town of the Commonwealth;
4. The Commissioner, members and employees of the Marine Resources Commission granted the power of arrest pursuant to § [28.2-900](#);
5. Regular conservation police officers appointed pursuant to § [29.1-200](#);
6. United States Coast Guard and United States Coast Guard Reserve commissioned, warrant, and petty officers authorized under § [29.1-205](#) to make arrests;
7. The special policemen of the counties as provided by § [15.2-1737](#), provided such officers are in uniform, or displaying a badge of office; and
8. Conservation officers appointed pursuant to § [10.1-115](#).

Such officers may arrest, without a warrant, any person who commits any crime in the presence of the officer and any person whom he has reasonable grounds or probable cause to suspect of having committed a felony not in his presence.

Any such officer may arrest without a warrant any person whom the officer has probable cause to suspect of operating ***in his presence either a vehicle while intoxicated in violation of 18.2-266, 18.2-266.1, 18.2-272, or 46.2-341.24; or*** a watercraft or motor boat (i) while intoxicated in violation of subsection B of § [29.1-738](#) or (ii) in violation of an order issued pursuant to § [29.1-738.4](#); ~~***in his presence, and***~~ may thereafter transfer custody of the person suspected of the violation to another officer, who may obtain a warrant based upon statements made to him by the arresting officer.

Any such officer may, at the scene of any accident involving a motor vehicle, watercraft as defined in § [29.1-712](#) or motorboat, or at any hospital or medical facility to which any person involved in such accident has been transported, or in the apprehension of any person charged with the theft of any motor vehicle, on any of the highways or waters of the Commonwealth, upon reasonable grounds to believe, based upon personal investigation, including information obtained from eyewitnesses, that a crime has been committed by any person then and there present, apprehend such person without a warrant of arrest. In addition, such officer may, within three hours of the occurrence of any such accident involving a motor vehicle, arrest without a warrant at any location any

person whom the officer has probable cause to suspect of driving or operating such motor vehicle while intoxicated in violation of § [18.2-266](#), [18.2-266.1](#), [46.2-341.24](#), [18.2-272](#), or a substantially similar ordinance of any county, city, or town in the Commonwealth.

3. DUI COST RECOVERY PROGRAM

Chief A.M. Jacobs
Department of Police

Background Information:

This change would clarify that the DUI cost recovery program applies to all DUI arrests. The Attorney General has issued an opinion that the current statute only applies in cases involving an accident.

Request:

§ 15.2-1716. Reimbursement of expenses incurred in responding to DUI incidents and other traffic incidents.

A. Any locality may provide by ordinance that a person convicted of violating any of the following provisions shall be liable for restitution at the time of sentencing or in a separate civil action to the locality or to any responding volunteer fire or rescue squad, or both, for reasonable expenses incurred by the locality for *responding* law enforcement, firefighting, rescue and emergency services, including by the sheriff's office of such locality, or by any volunteer fire or rescue squad, or by any combination of the foregoing, when providing an appropriate emergency response to any accident, incident related to such violation *or the arrest of the individual for such violation*.

1. The provisions of § [18.2-51.4](#), [18.2-266](#), [18.2-266.1](#), [29.1-738](#), [29.1-738.02](#), [18.2-272](#) or a similar ordinance, when such operation of a motor vehicle, engine, train or watercraft while so impaired is the proximate cause of the accident or incident;
2. The provisions of Article 7 (§ [46.2-852](#) et seq.) of Chapter 8 of Title 46.2 relating to reckless driving, when such reckless driving is the proximate cause of the accident or incident;
3. The provisions of Article 1 (§ [46.2-300](#) et seq.) of Chapter 3 of Title 46.2 relating to driving without a license or driving with a suspended or revoked license; and
4. The provisions of § [46.2-894](#) relating to improperly leaving the scene of an accident.

B. Personal liability under this section for reasonable expenses of an appropriate emergency response shall not exceed \$1,000 in the aggregate for a particular accident or incident occurring in such locality. In determining the "reasonable expenses," a locality may bill a flat fee of \$250 or a minute-by-minute accounting of the actual costs incurred.

As used in this section, "appropriate emergency response" includes all costs of providing law-enforcement, fire-fighting, rescue, and emergency medical services. The court may order as restitution the reasonable expenses incurred by the locality for responding law enforcement, fire-fighting, rescue and emergency medical services. The provisions of this section shall not preempt or limit any remedy available to the Commonwealth, to the locality or to any volunteer rescue squad to recover the reasonable expenses of an emergency response to an accident or incident not involving impaired driving, operation of a vehicle or other conduct as set forth herein.

4. REQUIRED CRASH REPORTS

Chief A.M. Jacocks
Department of Police

Background Information:

State Code § 46.2-373 requires law enforcement officers to submit an accident report if total damage to all involved vehicles exceeds \$1,000. This dollar amount was set approximately 10 years ago and is much too low based on the current cost to repair vehicles. If this amount is raised to \$2,500, it would greatly reduce the amount of paperwork necessary at minor accident scenes, reduce the burden on the courts in their attempt to determine fault, and reduce the time officers spend investigating minor accidents.

Request:

§ 46.2-373. Report by law-enforcement officer investigating accident.

Every law-enforcement officer who in the course of duty investigates a motor vehicle accident resulting in injury to or death of any person or total property damage to an apparent extent *of \$1000 \$2500* or more, either at the time of and at the scene of the accident or thereafter and elsewhere, by interviewing participants or witnesses shall, within twenty-four hours after completing the investigation, forward a written report of the accident to the Department. The report shall include the name or names of the insurance carrier or of the insurance agent of the automobile liability policy on each vehicle involved in the accident.

5. ENERGY CONSERVATION

*Bob Matthias
Assistant to the City Manager
Office of the City Manager*

Background Information:

This is a placeholder for a possible issue still being researched by staff. Staff is investigating what authority local governments, including Virginia Beach, have to allow density credits for energy efficient buildings, in addition to whether localities have any ability to require more energy conservation in buildings constructed. We are also examining whether the State can allow tax rebates or credits, both at the state and local level, for those who build energy efficient buildings. Finally, the Commonwealth's Climate Change Commission is meeting next week as a part of a series of meetings. We are following that Commission to see what recommendations may come for both statewide enabling legislation, and also enabling legislation for localities.

6. CSA ADMINISTRATIVE ALLOCATION

*Bob Morin
Department Director
Department of Human Services*

Background Information:

The funding formula to carry out the provisions of the Comprehensive Services Act defines the formula for local administrative costs based upon pool allocations from 1997. The maximum allocation any locality can receive for administrative costs is \$50,000. This amount has not increased in the past 8 years, despite continuing increases in the oversight responsibilities of CSA. FY 07 expenditures for CSA in Virginia Beach were \$10,838,856 million dollars, which required a supplemental request of additional state and local dollars. For FY 08, the CSA allocation is \$11,771,757. Covering additional administrative costs on top of the local share of any supplemental request for child-specific services is an undue hardship.

Request:

The General Assembly is requested to amend Title 2.2, Chapter 52 of the Code of Virginia to eliminate the maximum administrative allocation of \$50,000 in order to improve localities ability to meet the administrative requirements of the CSA and to permit a maximum amount equal to 2% of the allocation to be used for administrative costs.

7. LOSS OF MEDICAID ELIGIBILITY FOR TEENS IN FOSTER CARE WITH EARNED INCOME

*Bob Morin
Department Director
Department of Human Services*

Background Information:

Under current Virginia law, the local Department of Social Services must discontinue Medicaid to a foster care child between the ages of 19 and 21 if the foster child earns more than \$208.33 in gross income per month. These foster children need to have the benefit of Medicaid to cover the cost of their medical expenses, and they also need to have the opportunity to earn income beyond the current limitations. This law appears to be in direct conflict with the independent living program for foster children, which was designed to assist children in foster care aged 16-21 in becoming self-sufficient. Achieving the goal of self-sufficiency must include the opportunity for youth to earn income that will prepare them for survival in an independent living situation.

Request:

The City requests that the General Assembly amend title 32.1 of the Code of Virginia to allow foster children between the ages of 19-21 to be exempt from the income limitation, thus allowing them to remain eligible for Medicaid. This would give older foster children the opportunity to earn the income necessary to achieve the goal of self-sufficiency.

8. WEAPONS IN PUBLIC BUILDINGS

*Bob Morin
Department Director
Department of Human Services*

Background Information:

The General Assembly passed legislation in 2003 (codified at Virginia Code § [15.2-915](#)) which prevents localities from prohibiting or restricting the carrying of weapons into City buildings. As a result, the City may no longer prohibit people from bringing firearms into facilities run by Mental Health, Mental Retardation and Substance Abuse Services and Social Services.

Request:

The City requests that the General Assembly is requested to amend the Code of Virginia to authorize localities to prohibit firearms, pellet guns, air guns, or other weapons on the premises of facilities operated by Mental Health, Mental Retardation and Substance Abuse Services and Social Services, except when in the possession of licensed security personnel or law enforcement officers.

9. ALLOW VRS TO ADMINISTER THE OTHER POST EMPLOYEE BENEFITS (OPEB) TRUST

*Patti Phillips
Department Director
Department of Finance*

Background Information:

The 2007 General Assembly adopted SB789 which allows localities, school divisions, and certain political subdivisions to establish local trusts to fund post employment benefits other than pensions (OPEB). The original bill included the option of having VRS set up an OPEB trust for localities, but this provision was stricken upon final passage. VRS was amenable to taking on this task. It is still a good idea for VRS to take on this role so that the trusts can be professionally managed.

Request:

Amend the Code of Virginia by adding in Chapter 15 of Title 15.2 an article numbered 8, consisting of §§ [15.2-1544](#) through [15.2-1549](#) to include the establishment and management of a pooled OPEB trust fund for localities by VRS.

10. AUTOMATIC ENROLLMENT FOR NEW EMPLOYEES INTO THE CITY'S DEFERRED COMPENSATION PROGRAM

*Patti Phillips
Department Director
Department of Finance*

Background Information:

State law only allows state governmental employers to automatically enroll new employees into their Deferred Compensation Program. It would be beneficial for the City of Virginia Beach and other Virginia localities to also have this option as it further encourages employees to save for retirement.

Request:

Amend the Code of Virginia to allow Virginia Beach and other localities to change its deferred compensation plan from an “opt in” plan to an “opt out” plan.

51.1-601.1. Participation in plan by certain employees.

All employees of the Commonwealth, *its agencies, and all localities within the Commonwealth of Virginia* commencing employment or who are reemployed on or after January 1, 2008, in a position covered by the Virginia Retirement System, and who have not elected to participate in a plan established pursuant to § 403(b) of the Internal Revenue Code of 1986, as amended, shall participate in the plan described in § 51.1-602, unless such employee elects, in a manner prescribed by the Board, not to participate in such plan. The amount of the deferral for any such employee participating in the plan shall equal, on a semimonthly basis, \$20 of otherwise payable compensation, unless the employee elects to defer a different amount.

11. DO NOT REFUND EMPLOYER PAID CONTRIBUTIONS

*Patti Phillips
Department Director
Department of Finance*

Background Information:

VRS refunds the employee portion of a locality’s VRS contribution to job-related disability retirees. The actuarial calculations for future benefits take into consideration the contributions made by the municipal employer on behalf of the employee. The lump sum return of the employee contributions is a financially unsound practice to continue.

Request:

Discontinue the practice of refunding the employee portion of the City’s VRS contribution to disability retirees unless the employee has actually paid these contributions. These contributions which have been paid by the employer (taxpayers) are needed to fund future disability benefits. VRS should only refund contributions actually contributed by the disabled employee. The means to correct the issue is shown below.

§ 51.1-161. Withdrawal of contributions before retirement.

A. If a member has ceased to be an employee, other than by death or retirement, he may receive a refund of his accumulated contributions, reduced by the amount of any retirement allowance previously received by him under any of the provisions of this chapter or the abolished system.

B. Accumulated contributions, ***provided the employee actually made the contributions,*** shall be refunded to a member upon retirement for disability from a cause that is compensable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.) or to his designated beneficiary upon the death of the member from a cause that is compensable under the Virginia Workers' Compensation Act.

C. If a member becomes covered by an optional retirement plan established under §§ [51.1-126](#), [51.1-126.5](#), or [51.1-126.6](#), the member may elect to have his accumulated contributions, as reduced by the amount of any retirement allowance previously received by him under any of the provisions of Chapters 1 (§ [51.1-124.1](#) et seq.), 2 (§ [51.1-200](#) et seq.), 2.1 (§ [51.1-211](#) et seq.), or 3 (§ [51.1-300](#) et seq.) of this title or the abolished system, transferred directly to such optional retirement plan as a credit to his account in such plan. No portion of the transferred amount shall be available to the member until benefits under the optional retirement plan are otherwise available for distribution. An election to transfer the accumulated contributions to an optional retirement plan shall be treated as a withdrawal of the member's accumulated contributions for purposes of § [51.1-128](#).

12. JOB-RELATED DISABILITY RETIREMENT: ALTERNATIVE ELIGIBILITY GUIDELINES

*Patti Phillips
Department Director
Department of Finance*

Background Information:

The current VRS disability retirement code provisions provide for employees to retire on disability if they can not perform the job for which they were hired and the disability is a result of a job-related injury. This is the case even if the employee is medically able to perform other work without diminution of salary or benefits within the local government.

VRS' eligibility determination process for disability retirements does not afford localities the opportunity to provide employees an alternate position within the employee's medical capabilities.

Presently employees are entitled to disability retirement when an injury renders them unable to perform the essential functions of their specific job. In some cases; however, the employee is capable of performing other work and the locality may have alternate positions available for the employee within the parameters of the employee's medical restrictions.

Providing an option to employers to locate other jobs within the organization with comparable pay, and allowing or requiring employees who are medically able to perform work to accept an alternate position within the locality would be less expensive for the VRS system and the employer. Likewise, it would provide continuous employment and benefits for the employee.

Request:

The General Assembly is requested to amend Virginia Code § 51.1-156 Disability retirement to provide additional eligibility criteria for a job-related disability retirement to provide that employees must be totally and permanently disabled from their current job and other positions with comparable pay within their employer's organization or to allow a local government employer the option to review the knowledge, skills and abilities of employees with job-related injuries and advise VRS if alternate positions are available; and for VRS to deny an employee who is determined to be medically capable of performing an alternate position eligibility for job-related disability retirement pursuant to the following guidelines:

1. If the employee can not perform the essential functions of the job for which he/she was hired and the local government can not retain the employee in that position, THEN, the local government shall have the option of finding an available alternate position within its organization or affiliated organizations (locality, school board, development authority, constitutional offices) (a) for which the employee is qualified, or can be qualified, that is within the employee's medical restrictions; (b) that **does not result in a diminution of salary or benefits; and (c) that has been offered to the employee.** IF the locality chose to and was successful in finding an alternate position, the employee is capable of performing other work, and the alternate position is offered, the employee would not be eligible for disability retirement. Rather he/she would be required to accept the alternate position.

2. a. In the case of law enforcement employees: if the local government chooses to find an alternate position within its organization or affiliated organization and one is available within the employee's medical restrictions, that would not result in a diminution of salary or benefits, then any person disabled in any covered public safety position who (1) has at least fifteen (15) years of service in a LEO covered position and (2) who takes municipal employment in a non-covered position with the same local government shall retain the rights to the annual allowance in Virginia Code 51.1-217 when they qualify for a service retirement. In addition, if said member retires with a service retirement at 25 years or more the service retirements will be unreduced. [This would also require an amendment to § 51.1-138 or creation of a § 51.1-138.1.]

b. If the local government chooses to find an alternate position and one is available within the employee's medical restrictions, that would not result in a diminution of salary or benefits, then in the case of law enforcement employees with at least fifteen (15) years of service in a LEO position and who accept an alternate non-LEO position, upon service retirement from the same local government, the employee would be eligible, upon request, to obtain a retired law-enforcement officers photo identification card. [This provision would also require an amendment to §9.1-1000.]

Code provisions affected: § 51.1-156 Disability retirement; §51.1-138. Benefits, and §9.1-1000.

13. RETIREMENT BENEFITS FOR INVOLUNTARY SEPARATION

*Patti Phillips
Department Director
Department of Finance*

Background Information:

Currently, the transitional severance benefit and the optional retirement benefits are only available to state employees.

Request:

Broaden the state language to allow localities at their option and cost to participate in the following programs. The severance package (§ 2.2-3203) is probably doable without a code change; the second piece (§ 2.2-3204) of purchasing VRS time for employees whose positions are reduced probably needs for the Code to be changed. This would be a great option if, in future budgets, layoffs greater than those who can be transitioned are required.

§ 2.2-3202. Eligibility for transitional severance benefit.

A. Any full-time employee of the Commonwealth (i) whose position is covered by the Virginia Personnel Act (§ 2.2-2900 et seq.), (ii) whose position is exempt from the Virginia Personnel Act pursuant to subdivisions 2, 4 (except those persons specified in subsection C of this section), 7, 15 or 16 of § 2.2-2905, (iii) who is employed by the State Corporation Commission, (iv) who is employed by the Virginia Workers' Compensation Commission, (v) who is employed by the Virginia Retirement System, (vi) who is employed by the State Lottery Department, (vii) who is employed by the Medical College of Virginia Hospitals or the University of Virginia Medical Center, (viii) who is employed at a state educational institution as faculty (including, but not limited to, presidents and teaching and research faculty) as defined in the Consolidated Salary Authorization for Faculty Positions in Institutions of Higher Education, 1994-95, or (ix) whose position is exempt from the Virginia Personnel Act pursuant to subdivision 3 or 20 of § 2.2-2905; and (a) for whom reemployment with the Commonwealth is not possible because there is no available position for which the employee is qualified or the position

offered to the employee requires relocation or a reduction in salary and (b) whose involuntary separation was due to causes other than job performance or misconduct, shall be eligible, under the conditions specified, **for the transitional severance benefit conferred by this chapter.** The date of involuntary separation shall mean the date an employee was terminated from employment or placed on leave without pay-layoff or equivalent status.

B. An otherwise eligible employee whose position is contingent upon project grants as defined in the Catalogue of Federal Domestic Assistance, shall not be eligible for the transitional severance benefit conferred by this chapter unless the funding source had agreed to assume all financial responsibility therefore in its written contract with the Commonwealth.

C. Members of the Judicial Retirement System (§ [51.1-300](#) et seq.) and officers elected by popular vote shall not be eligible for the transitional severance benefit conferred by this chapter.

D. Eligibility shall commence on the date of involuntary separation.

E. Persons authorized by § [2.2-106](#) or [51.1-124.22](#) to appoint a chief administrative officer or the administrative head of an agency shall adhere to the same criteria for eligibility for transitional severance benefits as is required for gubernatorial appointees pursuant to subsection A.

§ 2.2-3203. Transitional severance benefit conferred.

A. On his date of involuntary separation, an eligible employee with (i) two years' service or less to the Commonwealth shall be entitled to receive a transitional severance benefit equivalent to four weeks of salary; (ii) three years through and including nine years of consecutive service to the Commonwealth shall be entitled to receive a transitional severance benefit equivalent to four weeks of salary plus one additional week of salary for every year of service over two years; (iii) ten years through and including fourteen years of consecutive service to the Commonwealth shall be entitled to receive a transitional severance benefit equivalent to twelve weeks of salary plus two additional weeks of salary for every year of service over nine years; or (iv) fifteen years or more of consecutive service to the Commonwealth shall be entitled to receive a transitional severance benefit equivalent to two weeks of salary for every year of service, not to exceed thirty-six weeks of salary.

B. Transitional severance benefits shall be computed by the terminating agency's payroll department. Partial years of service shall be rounded up to the next highest year of service.

C. Transitional severance benefits shall be paid in the same manner as normal salary. In accordance with § [60.2-229](#), transitional severance benefits shall be allocated to the date of involuntary separation. The right of any employee who receives a transitional severance benefit to also receive unemployment compensation pursuant to § [60.2-100](#) et seq. shall not be denied, abridged, or modified in any way due to receipt of the transitional severance benefit; however, any employee who is entitled to unemployment compensation shall have his transitional severance benefit reduced by the amount of such unemployment compensation. Any offset to a terminated employee's transitional severance benefit due to reductions for unemployment compensation shall be paid in one lump sum at the time the last transitional severance benefit payment is made.

D. For twelve months after the employee's date of involuntary separation, the employee shall continue to be covered under the (i) health insurance plan created in § [2.2-2818](#) for the Commonwealth's employees, if he participated in such plan prior to his date of involuntary separation, and (ii) group life insurance plan administered by the Virginia Retirement System pursuant to Chapter 5 (§ [51.1-500](#) et seq.) of Title 51.1. During such twelve months, the terminating agency shall continue to pay its share of the terminated employee's premiums. Upon expiration of such twelve month period, the terminated employee shall be eligible to purchase continuing health insurance coverage under COBRA.

E. Transitional severance benefit payments shall cease if a terminated employee is reemployed or hired in an individual capacity as an independent contractor or consultant by any agency or institution of the Commonwealth during the time he is receiving such payments.

F. All transitional severance benefits payable pursuant to this section shall be subject to applicable federal laws and regulations.

§ 2.2-3204. Retirement program.

A. In lieu of the transitional severance benefit provided in § [2.2-3203](#), any otherwise eligible employee who, on the date of involuntary separation, is also (i) a vested member of the Virginia Retirement System, the State Police Officers' Retirement System, or the Virginia Law Officers' Retirement System and (ii) at least fifty years of age, may elect to have the Commonwealth purchase on his behalf years to be credited to either his age or creditable service or a combination of age and creditable service, except that any years of credit purchased on behalf of a member of the Virginia Retirement System, the State Police Officers' Retirement System, or the Virginia Law Officers' Retirement System who is eligible for unreduced retirement shall be added to his creditable service and not his age. The cost of each year of age or creditable service purchased by the Commonwealth shall be equal to fifteen percent of the employee's present annual compensation. The number of years of age or creditable service to be purchased by the Commonwealth shall be equal to the quotient obtained by dividing (i) the cash value of the benefits to which the employee would be entitled under subsections A and D of § [2.2-3203](#) by (ii) the cost of each year of age or creditable service. Partial years shall be

rounded up to the next highest year. Deferred retirement under the provisions of subsection C of §§ [51.1-153](#), [51.1-205](#), and [51.1-216](#), and disability retirement under the provisions of § [51.1-156](#) et seq. and § [51.1-209](#), shall not be available under this section.

B. In lieu of the (i) transitional severance benefit provided in § [2.2-3203](#) and (ii) the retirement program provided in subsection A, any employee who is otherwise eligible may take immediate retirement pursuant to § [51.1-155.1](#).

C. The retirement allowance for any employee electing to retire under this section who, by adding years to his age, is between ages fifty-five and sixty-five, shall be reduced on the actuarial basis provided in subdivision A. 2. of § [51.1-155](#).

14. FOUR YEAR STATE-SUPPORTED COLLEGE IN VIRGINIA BEACH

*Marcy Sims
Department Director
Department of Public Libraries*

Background Information:

City Council has consistently been on record requesting a four year State-supported university be created within the City of Virginia Beach. The City recommends that the General Assembly investigate this request either through a study done by the State Council of Higher Education (SCHEV) or some other agency addressing of this issue.

15. CAPTURE OF SALES TAX FROM TOURISM RELATED VENUE

*James Spore
City Manager
Office of the City Manager*

Background Information:

A number of localities, starting with Roanoke in 1995, have received authority from the General Assembly to capture a portion of the sales tax generated in certain venues. These jurisdictions which now include Norfolk, Richmond, Hampton, Newport News, Portsmouth, Salem, Staunton and Suffolk can retain 3 ½ % of the 5% sales tax generated within a convention hotel or other tourism related facility to pay for debt service. Virginia Beach wishes to receive this authority for a similarly defined project.

Request:

The General Assembly is requested to amend § [58.1-608.3](#) to add Virginia Beach to the localities that already have this authority.

16. SMOKE FREE RESTAURANTS

*City Council
City of Virginia Beach*

Background Information:

City Council requests the General Assembly to either prohibit smoking in restaurants statewide or adopt enabling legislation that would allow localities to prohibit smoking in restaurants. The City Council supports this legislation in the interest of public health, not only for the citizens who might wish to go to a smoke free establishment, but also for hospitality workers who are exposed to second-hand smoke in a smoking establishment.

Request:

The City requests that the General Assembly prohibit smoking in restaurants statewide or enact legislation to enable localities to prohibit smoking in restaurants.

17. EXPANSION OF THE VIRGINIA HUMAN RIGHTS ACT

Virginia Beach Human Rights Commission

Background:

The Virginia Human Rights Act (Va. Code § [2.2-3900](#) et seq.) currently prohibits discrimination based on race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability.

Request:

The City requests that the General Assembly amend the Virginia Human Rights Act to also prohibit discrimination based on sexual orientation.

CITY OF VIRGINIA BEACH 2009 FUNDING ITEMS

The City Council of Virginia Beach recognizes the Commonwealth, as well as the City, are facing very difficult and trying fiscal realities. Nevertheless, the City Council is including these requests for funding to the Commonwealth for non-state agencies, as well as State responsibilities that are under funded. Many of these requests are long standing, others are new; all merit funding by the Commonwealth when resources are available.

1. VIRGINIA AQUARIUM & MARINE SCIENCE CENTER-OCEAN IN MOTION AQUARIUM TRUCK

Lynn Clements
Department Director
Museums

Background Information:

The Virginia Aquarium & Marine Science Center requests \$900,000 to support the *Ocean in Motion* program, which carries marine science education to schools and festivals across the Commonwealth of Virginia. The current *Ocean in Motion* aquarium truck has been bringing live marine animals and interactive programming to students since 2001. In that time, we have reached 175,377 students from the Coastal Plain to the far reaches of southwest Virginia. In 2006 alone, *Ocean in Motion* traveled to more than 55 Virginia cities across 21,900 miles to visit 75 schools and 25,213 students.

As we face new environmental challenges such as global warming, schools must have resources such as *Ocean in Motion* to enhance their science curriculum and inspire future scientists. We provide an experience that no textbook can duplicate – sea stars and horseshoe crabs to touch in the classroom and native fishes to watch aboard the truck. Without this type of experiential learning, students do not build emotional connections to the Bay and ocean, only intellectual ones. According to Richard Louv in his book *Last Child in the Woods: Saving Children from Nature Deficit Disorder*, individuals with emotional connections to the environment are the ones most likely to develop a strong stewardship ethic. This funding would allow *Ocean in Motion* to continue as a key educational component for fostering stewardship of the Chesapeake Bay and the ocean in our young people.

This traveling aquarium allows Aquarium educators to reach students who might not have the opportunity to see the ocean or the Chesapeake Bay in person. This experience is critical to developing “Bay and ocean literacy” in our citizens. Ocean literacy is an understanding of the ocean’s influence on you and of your influence on the ocean. If you are ocean-literate, you understand how the ocean functions, can communicate about the ocean in a meaningful way, and are able to make informed decisions about the ocean and

its resources. This concept was developed in 2004 by 100 ocean science and education professionals under the guidance of The National Geographic Society and NOAA. The work addresses the state of ocean and aquatic science in the classroom: It is one of the most “under-taught” subjects in K-12. The current reality is that citizens are not properly educated to deal with issues related to the ocean and to the Chesapeake Bay, both of which are important resources to the state.

Request:

The Virginia Aquarium is asking the General Assembly for \$900,000 to:

- purchase a replacement *Ocean in Motion* vehicle outfitted with state-of-the art aquariums;
- upgrade the vehicle’s onsite “docking” facilities;
- expand the holding systems for marine species used in outreach;
- And support the staffing critical to the success of the program.

Mileage and salt water have started to take their toll on the existing vehicle, which will need to be replaced within two years. We will add a large “truck port” to protect the vehicle from the elements and provide shelter for staff doing weekly maintenance. We plan to increase the number of animals carried aboard the truck and will need additional holding space for them in our upcoming Marine Animal Care facility. Finally, the success of the program hinges on having qualified staff to coordinate with schools, conduct the programs, handle routine vehicle maintenance, and provide care to the animals and life support systems.

2. SUPPORT FOR REGIONAL PLAN FOR GEROPSYCHIATRIC SERVICES

*Bob Morin
Department Director
Human Services*

Background Information:

Over the past several years, Eastern State Hospital has been undergoing a transformation from a nearly 500 bed hospital to a planned 300 bed facility. In 2006, plans for the demolition of the existing hospital and reconstruction of two new and smaller facilities were announced. The first phase of the project was to rebuild Hancock Geriatric Unit into a 150 bed facility, resulting in a loss of approximately 70 beds. The new Hancock Geriatric Unit opened on 4/1/08. The resulting loss of capacity for long term inpatient services for this fragile and growing population has led the Executive Directors in Health Planning Region V (HPR V represents CSB's of Colonial, Chesapeake, Eastern Shore, Hampton/Newport News, Middle Peninsula, Norfolk, Portsmouth, Virginia Beach, and Western Tidewater) to research and assess the system of services that would be necessary to serve this population in a community setting.

In early 2007, a task force was created to develop strategic recommendations for a regional plan for geropsychiatric services in HPR V. Older Americans are the fastest growing segment of the population in the nation. In 2000, persons over the age of 65 made up 12.4% of the population. By 2030, this number is estimated to be 25% (representing over 70 million Americans). Virginia's seniors are growing at a more rapid rate and are expected to reach the 25% level by 2025. The assumptions used in development of the proposed services recognize that aging in place in the least restrictive environment is preferable and that in order to assure good stewardship of the resources, consistent service outcomes and cost effective treatment must be provided. The task force researched existing statistical data, current services, service gaps, and documented need to develop a comprehensive system of care to meet the needs of the aging population in the region. There were a number of stakeholders, public and private, facility and community based, including service recipients and caregivers that contributed to the identification of service needs that were included in the plan. The resulting document outlines a continuum of care including inpatient, skilled nursing care, nursing home care, assisted living, adult foster care, respite, intensive outpatient, partial hospitalization, day treatment and support options, mobile outreach and triage, case management, and workforce development and training. (A copy of the complete plan is available upon request.) The proposed services are set up in a menu format that allow for maximum efficiency and placement across the region and can be funded in a phased approach if necessary. The total funding request is **\$7,371,578**. This is excluding anticipated fees to cover remaining costs.

Request:

During the last General Assembly Session, there was a Budget Amendment submitted that would have provided substantial funding towards “more fully funding” systems of care in HPR V and in the Northern Virginia area (HPR II), and for funding the development of systems of care in the remaining 5 regions of the state. Support is requested for resubmission of a budget amendment to provide the proposed services as outlined in the HPR V Regional Plan for Geropsychiatric Services.

3. SUPPORT FOR ADDITIONAL STATE GENERAL FUND DOLLARS FOR MENTAL HEALTH AND MENTAL RETARDATION

*Bob Morin
Department Director
Human Services*

Background Information:

There continues to be substantial need in the community for mental health, mental retardation and substance abuse services, as evidenced by growing waiting lists for community-based care. There also continues to be substantial needs in child-care, housing, employment, health care, and transportation for low income and disabled families. Seniors represent the fastest growing underserved population in Virginia. DHS staff, along with representatives from other CSB’s in the region has recently completed a system of care plan for geropsychiatric services that will help to address the unmet needs of seniors who will no longer be able to be served in a downsized Hancock Geriatric Center at Eastern State Hospital. (Copy of the full plan is available upon request).

Request:

The City of Virginia Beach is requesting that the General Assembly fully fund the mental health, mental retardation, and substance abuse system to meet the needs of children and adults on waiting lists for services. Funding is also requested to meet the needs of low-income families to include child-care, affordable housing, employment, health care, and transportation. Additionally, the City requests that funds be made available to adequately cover the cost of building community capacity as a result of downsizing Eastern State Hospital and Hancock Geriatric Unit. Specifically, funding is requested for the HPR V Regional Plan for Geropsychiatric Services. The total cost of the plan is \$7.3 million dollars. It is designed in a menu format that will allow for a phased in funding approach.

4. FUNDING FOR PUBLIC HEALTH SERVICES

*Venita Newby-Owens, M.D., M.P.H.
Department Director
Department of Health*

Background Information:

Costs to provide much needed services have steadily increased in Virginia Beach for public health. These include not only the traditional services to indigents but also services such as vector control, identification of West Nile Virus, and weapons of mass destruction. The dollars provided by the Commonwealth have become more inadequate over the years and the disparity between Virginia Beach per capita funding for public health care is woefully inadequate compared to other cities. In order to improve child health and school readiness and preventing child abuse and neglect, equalized funding is requested.

Request:

The General Assembly is requested to fully fund the Virginia Beach Public Health Department and equalize funding for Virginia Beach on a per capita basis to match Norfolk and Portsmouth.

5. VIRGINIA BEACH CONVENTION CENTER FUNDING

*James Ricketts
Department Director
Convention & Visitors Bureau*

Background Information:

In January 2007, the City of Virginia Beach completed the new and award winning Virginia Beach Convention Center. The new facility replaced the obsolete Pavilion Convention Center.

The old center had a total of 188,000 square feet and lacked the amenities essential for today's meeting planners. The new facility has a total of 516,000 square feet. This includes 150,000 square feet of exhibition space, over 31,000 sq. ft. of ballroom space and approximately 29,000 sq. ft. of meeting space. The total cost of the facility is \$202,571,000.00

The new convention center is putting Virginia on the map as a viable convention state. According to the Feasibility Study conducted by PricewaterhouseCoopers, the Commonwealth will realize the following economic benefits: Incremental tax revenues (in 2002 dollars) \$1.2 to \$2 million annually, between 900 - 1,500 additional jobs and between \$27.7 million – \$44.8 million in incremental direct expenditures new to the Commonwealth (not a transfer from other localities in the Commonwealth).

The economic impact for Hampton Roads is \$50.5 million to \$79.3 million in incremental direct expenditures and between 1,700 and 2,700 new jobs. This is in addition to the \$2.1 million incremental tax revenue to the City of Virginia Beach, \$97 million in Sales and 1,900 additional jobs.

Request:

The General Assembly is requested to provide the remainder of the \$10 million, beyond what has been appropriated. This is in keeping with the benefits to the Commonwealth based on the amount of state tax revenue that will be generated from the new facility over a ten-year period and the precedent set in State funding assistance provided to the Richmond Convention Center.

6. SANDLER CENTER FOR THE PERFORMING ARTS

*Emily Spruill
Cultural Arts Coordinator
Office of Cultural Affairs*

Background Information:

The Sandler Center for the Performing Arts, a professional-quality 1300-seat, 84,000 square-foot facility, is the cultural centerpiece of Virginia Beach, located at the core of the City's emerging Town Center. Opened in November 2007, the Center has enlarged spaces for performances, public and performer support and give the opportunity to expand the type and diversity of the performing arts programs in Hampton Roads and the State of Virginia.

The \$47 million facility, built under the General Assembly's PPEA process, has a full range of amenities, meeting the needs of today and tomorrow. As a tangible demonstration of their commitment, the Virginia Beach City Council dedicated \$35 million of City funds to the project. Fundraising for capital and an endowment fund is being led by the Virginia Beach Performing Arts Center Foundation, a non-profit organization spearheaded by some of the City's top civic and business leaders.

The Sandler Center for the Performing Arts will have a dramatic impact to the State of Virginia's tax base, generating over \$2.2 million for the construction phase and \$35,500 in annual State tax revenue. We ask the State to strengthen its commitment and investment to the future of this cultural landmark and to the City as a whole, by appropriating \$300,000 for the operations of the Center.

The new location at the exciting Town Center development has become a defining asset for social development for the City and Hampton Roads. It is a focal point for social activities from education to the arts and entertainment and illustrates the region's dedication to furthering the cultural life of its citizens.

Request:

The General Assembly is requested to appropriate \$300,000 for the operations of the Sandler Center for the Performing Arts.