



Virginia Local Government Law

Devolution: Will Virginia Pass its “Neglected,” “Crumbling” Highway System on to Local Governments?

By: Andrew McRoberts. Tuesday, December 13th, 2011

As discussed on this blog previously, there is a movement afoot in the Virginia General Assembly to transfer the responsibility and costs of the secondary road system in Virginia to your local county, city or town. **See our previous post — VDOT Study: Will State Roads Become Local Again?**

(To be clear, secondary roads are **more than just your subdivision streets**. They include nearly **all roads with a number above 600**. These include significant carriers of traffic including the Fairfax County Parkway, Robious Road in Chesterfield County, and many of the major through routes in rural counties.)

It is well known that the **“crumbling” state highway system** is in bad shape **due to years and years of deferring maintenance** by the General Assembly. Even the conservative blog Bacon’s Rebellion has forcefully stated, “Virginia is not spending enough on its transportation system.” See **Bacon’s Rebellion post, “A Glimpse into Virginia’s Road Maintenance Future?”**

Given this “legacy cost” associated with years and years of deferred maintenance, and the anticipated costs associated with future required maintenance, counties are understandably opposed. Many counties see hundreds of millions of dollars spent just to perform required but unfunded maintenance. They criticize the state for failing in its responsibilities and describe “devolution” as yet another unfunded mandate “that is neither justifiable nor reasonable.” See **“Why road ‘devolution’ is a bad idea for northern Virginia”** by the Chairs of the governing bodies of Arlington County, Loudoun County and Prince William County.

Jim Campbell, the Executive Director for the Virginia Association of Counties does not mince words. He sees this proposed transfer of the responsibility and costs of secondary road maintenance another step in a long history of “devolution” passing mandates and costs on to localities. He says, “[W]hile state lawmakers beat their chests and brag about reducing taxes, they are actually vicariously causing local property taxes to increase.” In effect, “\$60 million of your local property taxes were remitted each year to balance the state budget.”

On the underfunding of maintenance by the state, Campbell reports, “transportation dollars are so scarce that Virginia is losing federal transportation money because it cannot provide the modest matching funds.” He describes the condition of the state highway system today as a “neglected system of potholes and traffic gridlock.” Campbell concludes his op ed by suggesting that allowing counties more flexible taxing authority to go with the mandates may be one solution to paying for the needed road maintenance. His **op ed on the subject, “State Forces Local Taxes Higher”** was published in the December 11, 2011 Richmond Times-Dispatch.

Devolution of the state secondary highway system may happen whether local governments are opposed or not. Some members of the General Assembly suggest that local governments need to step up to fund secondary roads given the fact that localities approve the development of new secondary roads with no fiscal obligation. Local governments respond that there are many major state secondary roads and many older subdivision roads that have nothing to do with the land use policies or decisions of current governing bodies, and given the “legacy cost” of a system woefully-underfunded for years, devolution is fundamentally unfair.

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Some members of the Virginia General Assembly agree with VACo's Jim Campbell that localities cannot be given this mandate without the tax authority necessary to pay for it. See Senator Watkins' quote in **Chesterfield Observer, November 23, 2011**.

Whatever the answer, the 2012 Virginia General Assembly will be grappling with devolution and whether all of the state secondary road system will be passed off on local governments, or perhaps just some larger localities. If so, this will be the largest mandate to local governments in a generation and will undo a system that has been in place since the Byrd Act in 1932.

If devolution comes, a big question is whether the proposal for devolution be unfunded or accompanied by the necessary local control, revenues and taxing authority? Some local elected officials might welcome devolution if ownership, local control, revenues and additional taxing authority come with it. See **John Cook's December 7, 2011 op ed from Washington Post, "How Virginia Can Make Devolution Work."**

What do you think? Is devolution of the state secondary highway system to local governments a good idea?

If so, is devolution a good idea for all local governments, even the rural ones that are not much more developed than they were in 1932? And if so, what should the state provide local governments in the way of revenue, ownership, local control and taxing authority to allow them to do what the state has not — properly fund secondary highway maintenance?

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