

Explaining Federal, State and Local Government Responsibilities in Virginia

System of Federalism

We all benefit from the services of government every day. Each layer of government – federal, state and local – provides a portion of the fabric of our services and safety nets for the public. Each of these layers forms part of the system of government in the United States known as “federalism” which is a system of shared, distributed power between federal, state and local government. Every form of government in the United States has its own separation of powers and checks and balances to minimize corruption, waste, fraud and abuse. Local government is the form of government which is closest to the people and with which people come into contact most frequently.

While the federalist system provides that each of the 50 states has its own constitution, all provisions of state constitutions must comply with the U.S. Constitution. As of 2012, there are more than 30,000 municipal governments and 3,000 counties in the United States. In addition, there are nearly 50,000 school and special districts in the U.S. These districts also provide functions in local government outside county or municipal boundaries.

The matrix below illustrates some of the differences in the distributed power between the federal, state and local governments in the United States:

<i>Exclusive Powers of the Federal Government</i>	<i>Exclusive Powers of State Governments</i>	<i>Powers Shared by the Federal and State Governments</i>	<i>Services Typically Provided by Local Government</i>
<ul style="list-style-type: none"> Print money (bills and coins) 	<ul style="list-style-type: none"> Establish local governments 	<ul style="list-style-type: none"> Establish courts 	<ul style="list-style-type: none"> Education
<ul style="list-style-type: none"> Declare war 	<ul style="list-style-type: none"> Issue licenses (driver’s, marriage, etc.) 	<ul style="list-style-type: none"> Create and collect taxes 	<ul style="list-style-type: none"> Police
<ul style="list-style-type: none"> Establish an army and navy 	<ul style="list-style-type: none"> Regulate intrastate commerce 	<ul style="list-style-type: none"> Build highways 	<ul style="list-style-type: none"> Fire
<ul style="list-style-type: none"> Enter into treaties with foreign governments 	<ul style="list-style-type: none"> Conduct elections 	<ul style="list-style-type: none"> Borrow money 	<ul style="list-style-type: none"> Human Services

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<ul style="list-style-type: none"> Regulate commerce between states and international trade 	<ul style="list-style-type: none"> Ratify amendments to the U.S. Constitution 	<ul style="list-style-type: none"> Make and enforce laws 	<ul style="list-style-type: none"> Public Works (construction and maintenance of all county-owned or operated assets, and services like sewers, solid waste and stormwater management)
<ul style="list-style-type: none"> Establish post offices and issue postage 	<ul style="list-style-type: none"> Provide for public health and public safety 	<ul style="list-style-type: none"> Charter banks and corporations 	<ul style="list-style-type: none"> Urban Planning/Zoning
<ul style="list-style-type: none"> Make laws necessary to enforce the Constitution 	<ul style="list-style-type: none"> Exercise powers neither delegated to the national government or prohibited from the states by the U.S. 	<ul style="list-style-type: none"> Spend money for the betterment of the general welfare of residents 	<ul style="list-style-type: none"> Economic Development
	<ul style="list-style-type: none"> Establish a State Constitution (e.g., set legal drinking and smoking ages) 	<ul style="list-style-type: none"> Transportation 	<ul style="list-style-type: none"> Parks and Recreation

The budget is the primary way that the federal, state and local governments direct their policies and priorities. Directly or indirectly, all policy at all levels of government involves funding. Unlike the federal government which can incur a deficit to fund its day-to-day operations, state and local governments by law must operate within the parameters of a “balanced” budget, meaning that expenditures cannot exceed incoming tax revenue for the budget year. The start and end dates of fiscal years vary for the federal government (October 1 through September 3) versus state and local governments (many operate on a schedule from July 1 through June 30). In some cases, state and local governments also have two-year budget cycles (biennium). The budget cycle drives decision-making at all levels of government.

The Tenth Amendment to the United States Constitution states: “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” Of course, state and local governments have an interest in protecting and serving local needs.

Whereas the federal government and state governments share power in countless ways, a local government must be granted power by the state. In general, governing bodies in Virginia, including the Board of Supervisors and the School Board, are directly elected

by the people. County governments are organized local governments authorized in state constitutions and statutes. In most states, county and city governments are overlapping meaning that cities are within counties and service delivery is shared. In some states, such as the Commonwealth of Virginia, a city is independent of any separately functioning county government and essentially functions both as a county and as a city.

Unlike the relationship of federalism that exists between the U.S. government and the states (in which power is shared), county and city governments in Virginia have no power except what is granted to them by their states. This legal doctrine was established by Iowa State Supreme Court Justice Judge John Forrest Dillon in 1872 and upheld by the U.S. Supreme Court in 1907 (*Hunter v. City of Pittsburgh* - 207 U.S. 161, 178-79). In effect, state governments can place whatever restrictions they choose on their localities as long as such rules don't violate the State's constitution.

Most Americans have more daily contact with their state and local governments than with the federal government.

Fairfax County is required to enforce and administer various codes and ordinances as stipulated in the Code of Virginia as well as County Code of Fairfax County. In general, various codes are established by the federal or state government, but administered by the County. Similarly, many programs are partially funded by the federal or state governments, but are also administered locally by the County in the areas of human services (housing, Community Services Board, Health Dept., jails, School-Age Child Care (SACC), magistrate employees in the courts, etc. The State also caps or limits the amount of fees the County can charge for various services, especially in the arena of human services.

There are certain misconceptions about the responsibilities of the Commonwealth of Virginia versus Fairfax County. Some examples are:

Maintenance of Roads and Snow Removal

Perhaps the greatest misconception that some residents have concerns maintenance of secondary roads.

The Virginia Department of Transportation (VDOT) is responsible for the upkeep and maintenance of local roads, snow removal (except at County facilities), traffic medians, and the construction of new roads for all localities in the Commonwealth of Virginia, including Fairfax County. On occasion, the County has fulfilled these state obligations due to excessive delays in response time or projects. Indeed, with the exception of 11 miles of road in Fairfax County, snow removal is the responsibility of the State. In

addition, the road maintenance responsibilities of the State include the associated drainage systems in the VDOT right-of-way. It also includes other associated roadway items that are maintained by VDOT such as traffic signals and most roadway signs with the notable exception that the County maintains most street name signs (typically small blue or green signs with the road name). The County does **not** maintain other roadway signs (stop signs, yield signs, etc.) in the right-of-way. In addition, VDOT is responsible for systems in the right-of-way and Fairfax County is responsible for the systems outside the right-of-way. A right-of-way is a strip of land that is granted, through an easement or other mechanism, for transportation purposes, such as for a trail, driveway, rail line or highway.

Reimbursement of Costs Resulting From Emergencies

Another misconception surrounds the cost and billing for County staff to respond to an emergency, such as a hurricane, tornado, etc. When a state of emergency is declared for one of these events, whether by the Governor or the federal government, local funds expended on response, recovery etc., are not fully reimbursed. In fact, only a fraction of the local dollars spent on emergency mitigation are ever recuperated from the federal or state governments.

Real Estate Tax Assessments

Unlike another common misconception, Fairfax County does not have the authority to assess properties however they want. The Commonwealth of Virginia and Fairfax County have very specific guidelines in place for how properties are to be assessed. The assessment process is defined at >insert link<.

Despite these guidelines it is possible that an error in assessments is made. In that case the County has an appeals process to accommodate grievances about assessments as well as a tax relief program, details of which are available at >insert link<.

Human Services: State-County Partnership

Human services programs serve a wide range of people, including low income individuals and families; children at risk for poor physical and mental health, and educational outcomes; older adults, persons with physical and intellectual disabilities; and those experiencing mental health and substance use issues. Meeting these needs requires a strong partnership between the Commonwealth and local government. This is particularly true in the area of funding, which is necessary to create and maintain these home and community based services, and must be seen as an investment in the long-term success of the Commonwealth.

Funding for Public Education

Some hold the erroneous view that the federal and state governments provide the

majority of funding for local schools. Depending on the jurisdiction, the sources of funding for public education varies greatly. In Fairfax County, about 70 percent on average of the funding for Fairfax County Public Schools (FCPS) comes from the General Fund transfer from the County while about 16 percent comes from the Commonwealth of Virginia and only about two percent from the federal government. The remaining funding for the Schools' budget comes from a combination of sources, including a portion from the dedicated Sales Tax, balances, City of Fairfax, and other fees, tuitions, etc. The Commonwealth of Virginia's funding formula causes FCPS to significantly rely more heavily on local funds than most other jurisdictions in Virginia.