

City of Hampton, Virginia



Aerial view of the Hampton Coliseum, celebrating 50 years in January of 2020.

Legislative Agenda 2020

HAMPTON CITY COUNCIL

Donnie R. Tuck, Mayor
 Jimmy Gray, Vice Mayor
 Eleanor W. Brown
 Steven L. Brown
 Linda Curtis
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 Chris Osby Snead

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HAMPTON STATE LEGISLATIVE DELEGATION

<p>T. Montgomery "Monty" Mason 1st Senate District P.O. Box 232 Williamsburg, VA 23187 757.229.9310 District01@senate.virginia.gov Session: 804.698.7501 Pocahontas Building Room No: E515</p>	<p align="center">TBD 91st House District Session: 804.698.1091 Pocahontas Building Room No: TBD</p>
<p>Mamie E. Locke, Ph.D 2nd Senate District P.O. Box 9048 Hampton, VA 23670 757.825.5880 district02@senate.virginia.gov Session: 804.698.7502 Pocahontas Building Room No: E510</p>	<p>Jeion Antonia Ward 92nd House District 2017 Cunningham Drive, Suite 209 Hampton, VA 23666 757.827.5921 DelJWard@house.virginia.gov Session: 804.698.1092 Pocahontas Building Room No: E316</p>
<p>Thomas K. Norment, Jr. 3rd Senate District P.O. Box 6205 Williamsburg, VA 23188 757.259.7810 district03@senate.virginia.gov Session: 804.698.7503 Pocahontas Building Room No: E603</p>	<p>Marcia S. "Cia" Price 95th House District P.O. Box 196 Newport News, Virginia 23607 757.266.5935 DelMPPrice@house.virginia.gov Session: 804.698.1095 Pocahontas Building Room No: E317</p>

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- Modernize Communications Sales and Use Tax
- Honor Prior Commitments to the State Assistance to Local Police Departments (599 Program)
- Refrain from Passing Unfunded Mandates/Constitutional Inequity
- Require the Reporting of Lost or Stolen Firearms
- Support and Increase Staffing for the Hampton Roads Regional Jail
- Support Legislation that Reduces Instances of Distracted Driving
- Support Legislative Efforts to Address the Opioid Epidemic (Fentanyl)

LEGISLATIVE REQUESTS

(Listed in alphabetical order)

Add the City of Hampton to Localities that may Impose Conditions on Use Permits for Alcohol-Related Businesses

We request that the General Assembly amend Virginia Code § 15.2-2286(A)(3) to add the City of Hampton to the localities (currently only Norfolk and Richmond) that may impose a condition on use permits for business which have or intend to have retail alcoholic beverage licenses, stating that the use permit shall be subject to an automatic review and/or expiration upon a change in business operator or property ownership. Under current law, use permits for these types of business in every locality but Norfolk and Richmond, run with the land and new operators may “step into the shoes” of former operators provided that the use permit has not expired due to lack of use and the new operator complies with the existing use permit conditions. The City of Hampton requires uses permits for restaurants with retail alcoholic beverage licenses that provide live entertainment and typically imposes conditions requiring the business to provide security staffing and to comply with VABC licensing, maximum occupancy limits, dance hall regulations, and the noise ordinance. Older use permits, however, do not always include these modern conditions, which limits the City’s ability to mitigate negative effects. While this authority would not apply to existing use permits, new use permits approved by the City Council could be tailored specifically to each operator based upon their specific floor layouts and business plans.

Allow Localities to Increase and Protect Tree Canopy

As Hampton learns more about the impacts of sea level rise and recurrent flooding on coastal communities, the City is exploring its options to become more resilient, primarily through gray or built infrastructure, and green or natural infrastructure. Tree canopy is one of the most important green infrastructure assets. Trees reduce erosion by slowing rainfall and securing the soil with deep roots, prevent stormwater flooding by capturing and storing water in their canopy, bark, and trunk, reduce energy consumption by cooling the surrounding area, and more.

Over the summer, Hampton worked with a team from NASA to map and analyze Hampton’s existing tree canopy. It was made clear that the City is actively losing tree canopy in its most critical areas, such as the Newmarket Creek watershed. Additionally, impervious surfaces are increasing across the City.

The specific legislative request is two-fold:

- First, amend Virginia Code § 15.2-961 to allow localities within the Chesapeake Bay watershed to require the planting and replacing of trees during the development process to a greater degree than is currently allowed by the State. Current law sets a percentage limit based upon the use of the property and does not allow localities to tailor tree canopy requirements based upon the applicable flood zone, Chesapeake Bay features, stormwater management, or other natural conditions. House Bills 2333 (Keam) and 2146

(Turpin) in 2019 would have advanced this purpose but both were left in committee. This change would allow the City to invest more heavily in natural solutions, and in particular, direct canopy coverage where it is most needed. Tree canopy is more successful when grouped in large, contiguous corridors, and upstream from major sources of flooding (capturing stormwater before it has a chance to flow to a body of water and reduces the need for infrastructure such as ditches and erosion control). Small sections of a site dedicated to green space or tree canopy, which is what the typical solution from this ordinance could look like, will not have the overall benefit desired by the State. Additionally, a requirement for greater on-site coverage would create more opportunities for green infrastructure to be worked into the site design itself, creating more pleasant places.

- The second element of this request is to amend Virginia Code § 10.1-1127.1, which currently allows localities to adopt ordinances to regulate the preservation and removal of “heritage, specimen, memorial, and street trees,” if they have been individually designated as such by the governing body. The City would like to see this expanded to include regulation of trees meeting additional criteria. This could include tree location in certain key parts of the City or significant grouping of non-specimen trees. For example, many trees that would on their own be insignificant may form an important habitat connection that would fail if many or all of those trees were lost. A group of trees may also be preventing erosion and stormwater runoff upstream from a major flood point (and thus not protected under any Chesapeake Bay Preservation criteria). Allowing the City to designate additional trees that could be regulated would allow the City greater control over creating a resilient coastal community and reducing risk from sea level rise and recurrent flooding.

Create an Annual Fund to Address the Needs of Virginia’s Military Facilities

A 2015 DOD study quantified defense spending in Virginia at \$53 billion dollars. The City of Hampton has the largest defense spending as a share of state GDP at 11.8 percent. Military spending accounts for 44 percent of federal spending in Virginia. However, the economic benefits created by military installations are susceptible to changes to the Federal budget and to potential future rounds of Base Realignment and Closure (BRAC). In an effort to support the long-term sustainability of military facilities in the Commonwealth, many communities, including Hampton, have participated in a Joint Land Use Study.

A Joint Land Use Study (JLUS) is a cooperative planning effort conducted as a joint venture between an active military installation, surrounding jurisdictions, state and federal agencies, and other affected stakeholders, to address compatibility around military installations. The goal of a JLUS is to reduce potential conflicts between military installations and surrounding areas while accommodating new growth and economic development, sustaining economic vitality, protecting public health and safety, and protecting the operational missions of the installation.

After participating in a JLUS and through a combination of federal, state, and municipal funding, the City of Hampton has been able to successfully acquire almost 200 acres of privately held land

as part of an effort to combat encroachment that would limit or restrict military training, testing, and operations at Joint Base Langley-Eustis. Although this program has been very successful for Hampton in mitigating our encroachment issues, the current fund cannot be used for force protection or readiness issues, and the amount of funding that has been allocated is insufficient to address emerging needs.

The success of the encroachment program can and should be a model to provide resources to support other local infrastructure projects deemed to have a positive impact on the military value of installations within the Commonwealth, which benefit both the local community and the military installations. As such, and with our coalition of local partners, we would respectfully request the General Assembly create a fund of a minimum of \$5 million dollars annually for the purpose of addressing or mitigating needs other than encroachment that are identified by host localities of Virginia's military facilities. The Virginia Community Military Partnership Grant program would be administered through the Virginia Office of Veterans and Defense Affairs and any allocations made to localities for eligible projects would be subject to a local match; however, the Secretary's office would have discretion to waive the match requirement for communities without the means to provide a match.

Include the City of Hampton in Localities Permitted to Host Casino Gaming

During the 2019 legislative session, the General Assembly passed Senate Bill 1126 which would authorize casino licenses through the Virginia Lottery Board subject to certain requirements. One such requirement deals with specific parameters around host cities for casino licenses that narrowly tailor the potential licensees to Bristol, Danville, Richmond, Norfolk, and Portsmouth. Because the legislation also included a re-enactment clause, the General Assembly has the opportunity to revisit the topic this 2020 session.

Working in a collaborative fashion with neighboring localities, the City of Hampton provides a centrally-based location in Hampton Roads and is a viable option for a casino host site. Hampton is committed to a regional approach and has the support of our Peninsula partners. The City Council respectfully asks that the General Assembly consider Hampton as a possible host city.

Provide Localities the Authority to Regulate Overgrown Trees and Shrubs

Virginia Code § 15.2-901 currently allows local governments to regulate only certain types of overgrown vegetation: "...grass, weeds and other foreign growth, including running bamboo..." This leaves a gap in State authority, which prevents local governments from regulating overgrown trees, shrubs, and other vegetation that cannot be classified as "foreign growth" because it is indigenous to the area. This lack of authority results in the continuing negative presence of overgrown trees, shrubs, and vegetation on private properties. Such overgrown vegetation can result in a lack of vision clearance to primary structures, creating both an unsightly appearance and a lack of "eyes on the street" across private properties and from public streets, which results in greater difficulty for code enforcement and public safety officials to observe conditions that may be public nuisances. The appearance of neighborhoods is connected to property values, crime,

and the overall pride and health of the community. Accordingly, the City of Hampton requests additional State authority to regulate overgrown trees, shrubs.

HAMPTON'S PRIORITY POLICY POSITIONS

(Listed in alphabetical order)

Allow Localities the Ability to Regulate Firearms in Public Spaces

While all state office buildings in the Commonwealth currently prohibit guns and have done so since 2015, and the General Assembly allows only people who possess a concealed carry permit to bring them into the Capitol. Local governments are prohibited from taking any similar steps.

The Hampton City Council desires the authority to protect itself, its employees, and the public that it serves from those individuals with guns that may want to do harm. Recent events have served as startling reminders of this longtime safety concern.

The City of Hampton supports legislative efforts to amend existing law to allow for localities to have control over whether firearms are allowed on property owned, leased, operated, managed, or under the control of the local government including public parks and events that are hosted by local government in parks.

Continue to Support and Enhance Localities' Resiliency Efforts

The City of Hampton continues to face challenges dealing with sea level rise and coastal adaptation that require innovative solutions. In order to support localities taking a comprehensive approach we would respectfully ask the General Assembly to continue to look at a dedicated source of funding for the Virginia Shoreline Resiliency Fund, to continue adding monies to the Stormwater Local Assistance Fund and to allow localities more flexibility when it comes to addressing these challenges.

Continue Supporting and Funding Education Initiatives

Strong schools are not only essential for the students who attend them, but they also contribute to the City's economic growth as businesses and families consider school quality in their investment decisions. Future BRAC deliberations will consider the relative health of a military installation's surrounding school divisions as a measure of installation retention or growth. Throughout challenging economic times, the City of Hampton has maintained its commitment to Hampton City Schools and we are proud to say that this year Hampton City Schools reached 100% accreditation with no conditions. This is a milestone that could not have been achieved without the strong partnership of City and School Board leaders and staff.

We are pleased to report that Hampton City Schools perform better than other urban school districts across all measures. Hampton City Schools continue to make exciting advancements by focusing on career-based academies and becoming the first urban district in Hampton Roads to commit to providing Chromebooks to all middle and high school students. Those investments are paying dividends. Hampton City Schools have been selected as the most technologically advanced school system in the nation.

None of this would be possible without the excellent teachers in Hampton City Schools. The City continues to support pay equity for teachers and support staff and we ask our legislative delegation to please keep teachers and support staff in the forefront of their minds when it comes to the difficult budgeting decisions that must be made. The City of Hampton also supports continued state funding for At-Risk Education Funding, Transformational High Schools, and the Virginia Preschool Initiative.

In order to continue the positive forward momentum in our public schools, the state must be a reliable funding partner in accordance with the Virginia Constitution and Virginia Code. The Standards of Quality should recognize the resources, including positions, required for a high-quality public education system. We oppose any changes in methodology or changes in the division of financial responsibility that would result in a shift of funding responsibility from the state to localities.

Further, we oppose policies that lower state contributions but do nothing to address the cost of meeting the requirements of the Standards of Accreditation and Standards of Learning. Any approach to improving low-performing schools must include adequate state financial support.

Define and Regulate Games of Skill

“Skill” games, which are unregulated at the state level, are in use in multiple bars and convenience stores in Hampton. Such games include games known as Queen of Virginia games. At present, those machines are untaxed, unlicensed, and unregulated.

As a result of the lack of clarity in the law each individual Commonwealth Attorney must determine whether those machines are illegal gambling machines. To date only one jurisdiction is known to have determined that they are indeed illegal. Further, because of the lack of definition and state regulation, those machines are not contributing any revenue to the City of Hampton or the Commonwealth, creating unfair competition with other state-regulated gaming devices. In particular, the Virginia Lottery, a state agency that generates money for public education, has reported that those machines are competing with lottery machines for revenue. It is inevitable that those machines will also compete with the highly regulated historical horse racing industry, and with the proposed legalized casino gambling, which if sanctioned, is expected to be similarly regulated.

The City of Hampton supports legislation which would define and regulate “games of skill.” If such games are deemed legal, the City supports legislation which would provide localities with a mechanism to license and tax those games and machines.

Honor Prior Commitments to the State Assistance to Local Police Departments (599 Program)

The Code of Virginia (§ 9.1-165, et seq.) provides for financial assistance to localities with police departments through the "599" program. This legislation was enacted by the General Assembly when it imposed an annexation moratorium on cities more than 30 years ago. Currently, 175 cities, counties, and towns receive "599" funds. The Department of Criminal Justice Services (DCJS) administers the program.

The General Assembly has increasingly de-emphasized this funding obligation as a priority. Although the Virginia Code sets out a distribution formula for calculating the amounts for eligible localities, in recent years the General Assembly has instead specified in the Appropriations Act that localities' allocations in a given fiscal year are to be based on a standard, across-the-board percentage increase or decrease from the previous fiscal year's allocations. The distribution formula has, in effect, been superseded during those years by the instructions in the Appropriations Act.

The use of the Appropriations Act has led to a chronic underfunding of the Hampton Police Division and the other "599" eligible police departments throughout the Commonwealth. The City of Hampton calls for the state to honor its commitment to local governments and public safety by funding the program as stipulated in the Code of Virginia.

Modernize the Communications Sales and Use Tax

The City of Hampton supports amending the Communications Sales and Use Tax (CSUT) to modernize that tax base to capture new technology that is being used to deliver traditional services subject to the tax. In particular, the tax base currently includes landline, pager and beeper services, facsimile services, and telegraph, telegram, telex, and teletypewriter services, and cable television, all of which are declining industries; and fails to capture new technology replacing those services, such as video streaming (i.e. Hulu and Netflix), online faxing, and pre-paid calling services. The impact of continued reliance on that outdated tax base is reflected in the revenues received by the City. Over the course of the last five (5) fiscal years, the City has experienced a 14.5% decline, with revenues progressively declining from \$9.1 million in FY15 to \$7.8 million in FY 19. Modernizing and expanding that tax base would not only increase the revenue generated by the tax, but would also level the playing field among traditional service providers and those providing the more modernized, yet comparable services.

The CSUT was implemented in 2007 and replaced most of the previous state and local taxes and fees on communications services. The tax is generally collected by sellers from consumers and remitted monthly to the Virginia Department of Taxation, which then distributes it to localities (net of its administrative costs). The City also supports increasing the CSUT from 5% to the prevailing State sales tax rate of 5.3% percent as another way to counter the progressive decline in local revenues.

Refrain from Passing Unfunded Mandates/Constitutional Inequity

The City of Hampton requests that the Governor and the General Assembly refrain from using local governments as a fiscal balance wheel in order to overcome revenue challenges. Transferring costs to local governments is neither responsible to the Commonwealth's citizenry, nor to the fiscal health of the Commonwealth. We urge the Commonwealth to look for other ways to share the strain local governments must endure as cuts and program costs are passed down. The Governor and the General Assembly should make the difficult decisions to cut state services or raise taxes just as localities have had to do for years. Local government mandates should not be imposed unless supported by state funding. If state funding is not available any such mandate should not be imposed or should be imposed only as a local option.

In addition, the City recommends that state constitutional amendments with local government fiscal impacts require the cost burden to be allocated among all citizens of the Commonwealth so that the citizens of one or only a few localities are not unduly and inequitably burdened. For instance, the City of Hampton has one of the highest per capita populations of veterans in the Commonwealth of Virginia and in the United States. In fact, according to census data from 2000, Hampton, Virginia had the highest rate of veterans per capita in localities of over 100,000 citizens in the entire United States. The City is proud to host our veterans and know that they have found a well-run, responsive local government and a caring community with an abundance of natural resources, health care facilities, and other quality of life factors. However, state mandated tax relief programs for veterans also create a unique challenge for the City, as such programs have a more dramatic impact on the City of Hampton's budget than any other locality. The City experiences a disproportionate impact due to the number of veterans residing in our City, leading to a financial strain.

As such, the burden of taxation, as well as the benefits of services, should be shared and enjoyed by all. To the extent that the Commonwealth mandates relief for certain groups, the General Assembly should simultaneously enact measures that equalize the impact among jurisdictions, and should refrain from enacting policies and Constitutional amendments without adequately explaining the effects of such tax relief on all citizens or the cost of the tax relief. Further, handing down mandates on local government with little or no flexibility or tools available to local government to pay for these mandates is not tenable for the long term.

Require the Reporting of Lost or Stolen Firearms

Gun theft is a growing problem in Hampton and across the Commonwealth. Unfortunately, a substantial number of these thefts are never reported to law enforcement agencies. Lost or stolen guns can be diverted to the illegal gun market, where they are used to fuel crime in Hampton and across the Commonwealth. Laws that require firearm owners to notify law enforcement about the loss or theft of a firearm serve multiple public safety functions. These laws help deter gun trafficking and straw purchasing, and help law enforcement recover and return lost or stolen guns to their rightful owners.

The City of Hampton supports legislation which would make it an offense to fail to report a firearm lost or stolen within 24 hours of discovering that it was lost or stolen.

Support and Increase Staffing for the Hampton Roads Regional Jail

As a member jurisdiction of the Hampton Roads Regional Jail (HRRJ) Authority, the City of Hampton is making two requests to the General Assembly, in support of that body. The first is for an increase in support for medical and mental health care at regional jails throughout the Commonwealth. The second request is for the addition of jail officers to the Compensation Board complement each year, over two biennials. Both of these requests come in response to negotiations following an investigation of the HRRJ by the US Department of Justice.

Support Legislation that Reduces Instances of Distracted Driving

With new technology being introduced every day, distracted driving is a major traffic safety issue. Twenty states have banned hand-held phone use by all drivers, including Virginia's neighboring states of Maryland, West Virginia, and Tennessee. The federal surface transportation reauthorization, known as the FAST Act, contains incentive grant provisions for states that pass distracted driving laws that meet certain criteria.

The City of Hampton supports legislative efforts to protect the public and prevent private property damage resulting from individuals who are distracted and inattentive while driving, regardless of the causes of the distraction.

Support Legislative Efforts to Address the Opioid Epidemic (Fentanyl)

Virginia is facing an opioid epidemic with more deaths from drug overdoses than shootings or car crashes. One such opioid, fentanyl, continues to be one of the deadliest drugs in the state. We are concerned with its impact specifically on the youth of our community. In addition, Hampton's emergency service personnel face new and challenging problems when responding to calls, including being exposed to airborne synthetic drugs. The City of Hampton supports legislative efforts that address the ongoing, multifaceted opioid epidemic.

Coalition and Community Partners' Legislative Programs

The City of Hampton has a long-standing commitment to support and encourage our partnerships with local commissions, boards, organizations, coalitions and institutes of higher learning. As such, unless specifically stated, we generally support the legislative agendas of the following:

- **Hampton Roads Planning District Commission**
- **Hampton Roads Transportation Planning Organization**
- **Hampton Roads Transportation Accountability Commission**
- **Hampton Roads Transportation District Commission**

- **Hampton Roads Military and Federal Facilities Alliance**
- **Virginia Municipal League**
- **Virginia First Cities**
- **Hampton University**
- **Hampton-Newport News Community Services Board**
- **Hampton Roads Regional Jail**
- **Fort Monroe Authority**
- **NASA**
- **Joint Base Langley-Eustis**
- **Chesapeake Bay Foundation**
- **Virginia Seafood Agriculture Research and Extension Center**
- **Go Virginia**