

VFC 2010 State Legislation Talking points

Reenact the Uniform Power of Attorney Act that was passed during the 2009 session

During the 2009 session of the General Assembly passed SB855, which establishes in the Code of Virginia the Uniform Act that was adopted by the National Conference of Commissioners on Uniform State Laws in 2006. The Act consists of default rules that can be modified if the principal desires.

The 2009 General Assembly session lasted only 45 days and several thousand bills were considered. New legislation is often rejected out of hand if members are not assured that they have had sufficient time and resources to vet the details of the bill personally. One technique used by sponsors to gain initial passage of a bill is to put a reenactment clause in the bill. This allows members time to consult with their constituents and legal experts to assure that the bill will do no harm.

The bill adopts a code that is identical to that being adopted in other states which will permit individuals who need to draft a power of attorney to only require one instrument rather than having their legal advisors draft institution specific instruments, and as additional states also adopt the code, the instrument will be useful and valid in other states if needed.

After several institutions were successfully sued for accepting powers of attorney that a court considered faulty, many institutions chose to accept only those drafted by their own legal department. This meant that a person with financial dealings with several different institutions would be faced with executing several different instruments. The problem was compounded by the differing views of different states. This act will go a long way to make the process easier and more universal.

References:

The **AARP report**, "Power of Attorney Abuse: What States Can Do About It," compiled by the American Bar Association Commission on Law and **Aging**

2009 General Assembly bill SB855 "**Uniform Power of Attorney Act**"

Encourage VDOT to alter transportation policies to accommodate the needs of the rapidly increasing senior's population:

. As a consequence of legislation passed during the 2006 session of the GA, all state agencies were required to draft an agency plan to address their operations and address the impact they would have on seniors as the population of seniors became an increasing part of the overall population. While this was done and published the annual updates which are now published by the Agency on Aging are not well publicized and identify little that is being done to mitigate the problems. Also the report text is short on details and appear to be more words than action.

The most recent report published by the department of aging includes the following comments by the Department of Transportation.

“The *Virginia Department of Transportation* (VDOT) is aware that the number of drivers 65 and over in Virginia continues to increase. VDOT’s Older Driver Initiative program is directed towards helping motorists by utilizing enhanced visual aids- signs, signals, roadway lighting and markings. VDOT now uses pavement markings that enhance wet and night visibility in construction zones; construction zone barrels that provide a heightened visibility; and glass curb reflective markers to delineate medians at certain locations.

The *Department of Rail and Public Transportation* (DRPT) indicates that the growth in the aging population will increase the demand for public transportation and private agency transportation because many members of the senior population will not be able to drive themselves. The DRPT program that impacts senior citizens is the Federal Transit Administration (FTA) program called “*The Elderly Persons and Persons with Disabilities Program (Section 5310)*.” In addition to administering Section 5310, DRPT has established the *Interagency Transportation Coordinating Council* to promote interagency cooperation (including transportation services for the elderly) at the state level.”

Since it is projected that the population of persons 65 and over will approach 20% of the total Virginia Population by 2030 just words are not sufficient. Too many places still have lane markings and signage that do not conform to these VDOT statements.

Many studies and research papers have been done that identify the various changes that age has on individual abilities and just how this will impact transportation design and operation. Policy must call for larger and more visible signage for street signs, and route numbers. Lane markers and edge designators must be clearer and visible under adverse weather conditions. Often design changes must be considered from various perspectives. Using wider lane roads will provide for better visibility and accommodate slower reaction times, but will also encourage higher speeds and make crossing a wider roadway more difficult for less mobile citizens.

Public transportation to meet the needs of seniors needs to be developed in all areas of the state. Seniors who relied on their own private transportation options need help converting to the use of public transportation modes.

Some sources for further information on these matters are:

“Second Annual Summary of Reports on Progress in Addressing the Impact of the Aging Population by State Agencies” Report #162 2009
Author Department for the Aging

“Summary of State Agency Reports on Progress in Addressing the Impact of the Aging of Virginia’s Population” Report #191 2008
Author Department of Aging

“Planning Complete Streets for an Aging America”

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Create a Bipartisan Redistricting commission to redraw the district lines for the State Senate, the House of Delegates and the Virginia Congressional Districts based on the census of 2010.

The constitution of the Commonwealth of Virginia places the authority for setting district lines after every census in the hands of the members of the general Assembly. Since Virginia holds elections annually the results of the 2010 census will be used in the Spring of 2011 to redraw the lines of the districts for the House of Delegates, the State Senate and the U.S. Congress. The numbers become available late in 2010 and must be used to establish new lines in time for meeting the filing deadlines for the June primary season. There are numerous examples in the past decades where the majority party has used this authority to markedly improve their advantage in elections. It is time for a bipartisan approach.

Redistricting is done to make the various district sizes accommodate the changes in population. Since the changes in population are not uniform throughout the state it is necessary to adjust the district boundary lines to come closer to equal representation in each district. There are many ways to redraw the lines of political districts to benefit one party over another or one group over another.

Bills have been introduced over the last several years to create a bipartisan commission, or to change the constitution to place the responsibility in the hands of a commission. All have failed. Without a constitutional amendment, any commission authorized for the 2011 redistricting will have to submit its recommendation to the General assembly for passage. Both candidates for Governor and at least one candidate for Lt Governor have endorsed the idea of using a bipartisan commission. Typically the members of the House of Delegates work on a bill to determine their own district lines and the Senate draws their own lines. Each house has not sought to change the lines determined in the other house. This works out well if control of both houses and the Governorship are controlled by one party. In 2001 the Republicans had control for the first time in over 200 years. This year it appears that the two houses will be controlled by different parties which may lead to problems in reaching a decision.

Support the passage of a Constitutional Amendment as featured in HJ688 passed during the 2009 session.

Amend the Constitution of Virginia to allow the General Assembly to authorize all localities to either waive or establish their own income or financial worth limitations for purposes of granting real property tax relief for persons not less than 65 years of age or persons permanently and totally disabled.

Currently, only localities in two regions of the state; Northern Virginia and Central Virginia, have the authority to offer reduced rates to seniors and disabled citizens. The General Assembly has provided different maximum levels for assets and income in the two areas. Since each locality is free to adopt its own values up to the permitted maximums a locality can make adjustments for the needs of the local residents. The opportunity to offer this program to persons in the rest of the state and to permit the locality to set its own limits makes the program better for all citizens of the state.

Aging issues in the state are still a concern. Many issues identified in the JLARC10 study still need addressing.

The JLARC study , issued in 2005, identified many problems that arise from the growth of the senior's population in Virginia. The population of persons older than 65 is anticipated to increase from approximately 11% now, to almost 20% in 2030. The study pointed out that most state agencies were not prepared for this change, even had not appreciated what impact this change would have on their operation. One of the major issues will be the demands on state health care that must be met. Some steps that should be taken are:

Implement and enforce geriatric certification requirements for both professional and non-professional workers. Similar medical problems manifest themselves quite differently in persons of different gender and age. Geriatric medicine recognizes that different approaches are often needed for elderly patients than middle aged ones. It is important to use geriatric certified medical personnel who are trained to recognize the difference and direct medical treatment accordingly. The state must assure that sufficient geriatric training is provided for medical professionals and medical support personnel.

Implement and enforce policies to assure that an adequate caregiver to patient ratios is available in elderly care institutions. Labor costs are the largest driver of medical costs and treatment providers must be encouraged to keep sufficient staff on hand to meet the needs of their patients.

Require nursing homes to provide more options to patients for obtaining prescriptions and other needed drugs and medicines. Patients who have their own insurance for prescriptions should be encouraged to continue to use their plan to provide their own medications, rather than use an in house pharmacy.

Implement programs to secure and encourage greater utilization of ombudsmen for patients. One of the sad facts of aging is that age related debilitation often prevents the patients who need help from speaking out for them. The patient ombudsman program has been a great help but it is short of volunteers and trained help.

Expand Medicaid coverage to Assisted Living situations. Recent accounts of a 107 year old resident in an assisted living facility in Northern Virginia who has outlived his resources pointed up the fact that Medicaid would not cover assisted living facilities. As the economy sours more will be in this situation and some aid will be necessary.