

**REPORT OF THE  
COMMISSION ON LOCAL GOVERNMENT**

**REPORT ON  
ANNEXATION ALTERNATIVES**

**TO THE GENERAL ASSEMBLY OF VIRGINIA**



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**REPORT ON  
ANNEXATION ALTERNATIVES**



**Commission on Local Government  
Commonwealth of Virginia**

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## Executive Summary

During the 2016 regular session of the General Assembly, the existing moratoria for city annexation, county immunity from city annexation, and the granting of new city charters was extended until 2024 (Appendix A). Additionally, the Commission on Local Government (CLG or the Commission) was directed to study and provide a report to the General Assembly by Dec. 1, 2018, on the following:

1. Evaluate the structure of cities and counties in the Commonwealth;
2. Evaluate the impact of annexation upon localities;
3. Consider alternatives to the current moratorium on annexation by cities; and
4. Consult with and seek input from the Virginia Municipal League, Virginia Association of Counties, and localities directly affected by moratorium.

Pursuant to § 15.2-2900 of the Code of Virginia, the CLG was established as a way “to create a procedure whereby the Commonwealth will help ensure that all of its localities are maintained as viable communities in which their citizens can live.” The CLG established a guiding principle for its evaluation and consideration of alternatives based on this charge. The CLG believes that healthy, viable local governments are critical to the well-being of the Commonwealth and that a harmonious and successful relationship between and among the Commonwealth and its localities ensures greater health, welfare, and prosperity for all of the Commonwealth’s citizens and businesses.

Virginia’s local government structure originated from a need to meet certain service needs of citizens at a more geographically proximate level. Counties were established as the general form of local government with the mandate to provide a standard level of service, while cities and towns originated to provide urban types of services, such as police and water and sewer infrastructure, in addition to other standard mandated services. While towns were established as component units of counties, thereby sharing some services and tax bases with counties, all of Virginia’s cities are independent, which means they do not – by default – share these responsibilities with counties. This feature distinguishes Virginia from every other state in the nation.

Because of their independent status, city annexation removes such area – including the tax base – from the affected county. Historically, annexation was usually perceived as reasonable and uncontested. Cities and towns annexed to encapsulate areas of extended or planned service delivery, especially urban services, and for future economic development. It allowed the city or town to grow its tax base and connect communities of interest. More recent circumstances, such as urbanization of counties and race relations, made annexation challenging and created a contentious environment. Some counties and towns consolidated to form new cities to prevent future annexation, while other eligible urbanized counties declared themselves statutorily immune from city annexation and the establishment of new independent cities. Meanwhile, other cities aggressively pursued final annexation efforts. Overall, these annexation disputes and other disagreements resulted in costly and lengthy legal battles and created a general spirit of distrust and hostility between many of Virginia’s cities and counties.

In an effort to address the controversial circumstances surrounding city annexation in Virginia, the Commonwealth commissioned a number of studies on this and other related matters. On two such occasions (1971 and 1987), temporary moratoria on annexation were enacted while the studies were underway. While some recommendations were implemented with varying degrees of success, others were left unaddressed, and the final temporary moratoria enacted in 1987 remain in effect today. Furthermore, despite including a compromise that would lift the moratoria if certain funds were not appropriated based on a statutory formula, exceptions to this requirement for 12 biennial cycles (including three future biennia) have been enacted.

Consequently, with a few exceptions, Virginia cities and counties have remained in the same geographic form for over 30 years. Conversely, nearly 50 town and county annexation-related matters have occurred, in part – due to the more harmonious, overlapping nature of town and county structures in the Commonwealth. Meanwhile, other issues have surfaced or grown in significance and present new challenges to the Commonwealth and its local governments. One issue of growing importance is local government fiscal stress, which is primarily concentrated in cities and the more rural regions of the Commonwealth. These communities are stressed due to their size and lack of a bigger tax base, small revenue bases make it more difficult to afford various local service demands – many of which are mandated at the state and federal level.

Changes in the economy, population growth and development, service demands, and other issues have contributed to greater fiscal stress in some localities and problems have started to transcend boundary lines. The Commonwealth faces a growing landscape of regional issues, such as the opioid epidemic, uneven job growth, and suburban poverty. While opportunities for regional cooperation exist and have been implemented, a number of obstacles have prevented additional regional successes from occurring. Comparing measures of fiscal stress with other indicators suggests that additional efforts to assist with or incentivize interlocal cooperation, local transitions, and operational efficiencies in addition to more direct financial actions at the state level may be necessary and that such efforts could produce state and/or local costs savings and improved service delivery.

The Commission, through research and consultation with a variety of stakeholders, identified a variety of considerations that could help address these matters. While some are not directly related to annexation and cover significant topics that may warrant additional review, the Commission thought these matters were important to raise and perhaps could address issues indirectly related to the moratoria. The Commission believes these considerations will help ensure that all of the Commonwealth's localities are viable places in which their citizens can live and that many of the hardships of fiscal stress, concentrated poverty, and others identified in this report can be alleviated.

Most importantly, given the historic volatility of city annexation relative to independent city structure in the Commonwealth, the Commission considers granting cities the ability to annex in the future to be a very low probability and an ineffective solution. If the moratoria were lifted, many counties eligible for full or partial annexation immunity would pursue such action and end annexation for some cities forever. Meanwhile, the few remaining cities would likely pursue annexation, which would be fiercely opposed and litigated. Furthermore, many of these cities are located in areas where



fiscal stress is regional, so annexation would not likely solve fiscal matters. Similarly, many towns that could pursue transition to independent city status would probably face the same opposition and potentially threaten the fiscal viability of many counties. Consequently, these scenarios would lead to a significant disruption in the lives and operations of many of the Commonwealth's citizens and businesses, respectively, and run counter to fostering positive intergovernmental relations in the Commonwealth. For these reasons, the Commission suggests that the Commonwealth may consider making the moratoria permanent especially relative to independent city structure.<sup>1</sup>

Notwithstanding that assertion, the Commission believes that other structural and fiscal matters could be considered and implemented that would achieve more success and better promote and sustain the viability of all local governments in the Commonwealth through positive intergovernmental relations, regional efforts, and other more general matters. The Commission would like to emphasize that making the moratoria permanent should *not* (emphasis added) be the only outcome of this study. This report highlights many significant issues that the Commonwealth's local governments are experiencing, especially those that resulted from the inability of the Commonwealth's cities to grow and others that now transcend individual local boundaries, have migrated to counties, or are concentrated in certain regions. Comprehensive consideration of these matters is essential and would help ensure that all of the Commonwealth's localities are maintained as viable communities in which their citizens can live.

Accordingly, the Commission has identified the following for consideration:

1. Modify reversion and consolidation statutes to remove obstacles.
2. Make reversion and consolidation more cost-effective through incentives.
3. Grant additional powers to counties through reversion and other interlocal agreements.
4. Evaluate mandated service delivery methods to identify appropriate service level.
5. Relax the requirements for the establishment of joint authorities and special districts.
6. Provide planning grants to explore interlocal agreements and other operational efficiencies.
7. Evaluate adequacy of local fiscal resources to identify enhancements.
8. Create or expand programs to reduce local fiscal stress.
9. Incentivize additional regional cooperation and regional programs.

The Commission recognizes the sensitivity of some of these issues and associated considerations. Despite this reality, the Commission believes they are far more attainable and practical solutions than what would be gained from lifting the annexation moratoria. It is our sincere hope that these options will be considered for implementation as a means to continue to foster the growing momentum among localities to foster regional collaboration which benefits the Commonwealth's residents and businesses.

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<sup>1</sup> Additional consideration regarding the constitutionality of making the moratoria permanent may be necessary. Article VII, Section 2 of the Constitution of Virginia requires that "the General Assembly shall provide by general law for the...change of boundaries...of counties, cities, towns, and regional governments." Sections 15.2-3106 et seq. of the Code of Virginia, which provides for local boundary changes by agreement, may satisfy this requirement, but additional evaluation and interpretation may be necessary.

## Scope of Review

During the 2016 General Assembly session, the existing moratoria for city-initiated annexation, full or partial county immunity from annexation, and the granting of new city charters was extended until 2024.<sup>2</sup> The Commission on Local Government was also directed to study this matter and report to the General Assembly by December 1, 2018, on the following:

1. Evaluate the structure of cities and counties in the Commonwealth;
2. Evaluate the impact of annexation upon localities;
3. Consider alternatives to the current moratorium on annexation by cities; and
4. Consult with and seek input from the Virginia Municipal League, Virginia Association of Counties and localities directly affected by moratorium.

At the beginning of its study, the Commission held two public hearings in Richmond and Staunton to solicit initial public input on the direction of the study. Prince George County and the City of Martinsville both provided comments (Appendix B). These comments help frame the dichotomy of issues surrounding city annexation and local government structure and also highlight other significant local government issues that have resulted from or are related to the moratoria. They are summarized below:

### Prince George County:

- Annexation created a historic atmosphere of distrust between cities and counties
- Many counties chose to provide urban-type services and began to prevail in annexation cases
- The moratoria should remain in place
- Support for equalization of tax and debt powers and opportunities for regional collaboration

### City of Martinsville:

- Moratoria froze local government structure in time with most growth now outside of cities
- Without growth, many cities face elevated fiscal stress and difficulty meeting service demands
- Counties should be the pre-eminent local government form and independent city concept should be abolished
- Incentivize local service consolidation and honor 599 funding obligation

Over the course of the last two and a half years, the Commission assembled a panel of stakeholders to advise the Commission for this study. Stakeholders included representatives from the Virginia Association of Counties, Virginia Municipal League, two pairs of cities and counties directly affected by the moratoria (Emporia/Greensville and Harrisonburg/Rockingham), and several other stakeholders with extensive backgrounds in local government matters. The stakeholders met collectively seven times, alternating between meeting in the Richmond and Charlottesville areas. The earlier meetings were a discussion of context and issues surrounding the moratoria and local government structure, while the latter meetings focused on developing solutions for consideration.

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<sup>2</sup> Section 15.2-3201 of the Code of Virginia

Once there appeared to be consensus among the stakeholders regarding the potential solutions, which were divided into two sections: structural and fiscal, the Commission deliberated structural and fiscal considerations and directed staff to write a draft report. The Commission solicited comments from the stakeholders during one final meeting where additional feedback was provided that staff worked to incorporate into an updated draft of the report based on the consensus of the Commissioners. Staff then proceeded to solicit public comment on the draft report by posting it on the Commission's webpage and by holding two public hearings in July and September of 2018 in Richmond and Staunton, respectively.

Based on the public hearings and public comment period, the Commission received comments from the Cities of Lexington, Martinsville, Roanoke, and Staunton; the Counties of Frederick and Henry; the Town of Leesburg; the Virginia Association of Counties; the Virginia Association of Planning District Commissions; the Virginia Municipal League; and one citizen. Most of these comments were received in written form prior to or at the public hearings (Appendix C) while some were oral testimony received during such hearings with no accompanying written comment provided. Overall, these comments varied in their support of the draft report while others offered additional points for consideration or disagreed with some of the report's considerations. The text of this report elaborates on these disagreements or additional points for consideration as the topics are discussed. Almost all comments universally agreed that there was a sense of urgency and need for action on the Commonwealth's part in addressing many of the issues this report discusses.

The Commissioners discussed these comments during July and September meetings and directed staff to revise the report based on the consensus of those discussions. A final draft version of the report was presented to the Commission for their November 2018 meeting. At such meeting, the Commission approved the final report for transmittal to the General Assembly.

## **Virginia Local Government History**

The structure, responsibilities, and growth of local governments in the Commonwealth have evolved over the years. The legislative mandate directing this study requires an evaluation of the structure of cities and counties in the Commonwealth, which is achieved by looking more closely at structure, responsibilities and growth. Regarding local government history in Virginia, annexation is likely one of the most important subjects, especially in more recent times when the traditional distinction between cities and counties began to blur and the resulting significant disputes on the matter led to the moratoria. It is through the examination of these linked issues and additional related context that potential solutions to these matters were identified.

### **Colonial Days and Establishment of Local Government**

Virginia's local government origins date back to the time of the Virginia Colony, which began as a corporate endeavor to settle and harvest the vast resources of the New World. The Virginia Company made several efforts to encourage and sustain permanent settlement, which was necessary for its

success. First, it allowed settlers to own, develop, and harvest plots of land for their own profit rather than on company-owned land. These areas, often referred to as “hundreds” or “plantations,” were largely managed under their own self-government with little corporate interference. As its geographic footprint grew, settlements were organized into subdivided territory of four incorporations known as “citties” along the James River. These are not to be confused with Virginia’s modern day cities; however, they were given names that remain in Virginia local government history and structure today: Charles Cittie, Elizabeth Cittie, Henrico Cittie, and James Cittie.<sup>3</sup>

Despite some of its early successes, especially commodifying tobacco, the King forbade the Virginia Company from directly trading with other countries. The resulting fiscal stresses – in addition to the demise of 25% of the colonists from a conflict with Native Americans – triggered the dissolution of the Virginia Company and the denial of future charter requests by the King. Instead, Virginia evolved into a Royal Colony managed by a Royal Governor in 1624 with additional affairs addressed by the Virginia General Assembly, which was established soon thereafter in 1627.<sup>4</sup>

The resulting population growth and diversifying economy overwhelmed the General Assembly. More minor and area-specific needs of colonists did not require the General Assembly’s attention. Consequently, in 1634, Virginia was subdivided into eight shires – later referred to as counties – for more efficient service delivery to colonists. Each county was governed by a county court. Additional officials included the sheriff, clerk, and county lieutenant, who all were mandated to provide ministerial and law-and-order services to the colonists. The eight original counties included: Accomack (Northampton County), Charles City, Charles River (York County), Elizabeth City (Virginia Beach), Henrico, James City, Warrosquyoake (Isle of Wight), and Warwick River (Newport News).<sup>5</sup>

This pattern of growth, westward expansion, and an increasing need for more effective and organized service delivery continued for about 250 years. Consequently, additional counties – and states in some cases – were formed to more effectively subdivide management and service delivery. The pattern was so extensive that Virginia’s claims to territory covered the following eight present-day states: Illinois, Indiana, Michigan, Minnesota, Ohio, Pennsylvania, West Virginia, and Wisconsin. For Virginia, alone, the county subdivision process continued so that no one would be more than one day’s horse ride away from a county courthouse, echoing the logic of ensuring citizen accessibility to services. Consequently, Virginia county government structure has remained largely unchanged – with some notable exceptions described later in this report – since 1880 when Dickenson County, Virginia’s youngest county, was created.<sup>6</sup> Overall, the change in these geographic and political subdivisions was extensive and reflected the rapid growth and evolution of Virginia as a colony and state (Appendix D).

Initially, cities and towns were rare; however, some circumstances necessitated the establishment of these denser population centers. Originally, some of these areas originated for defense purposes as

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<sup>3</sup> Emily J. Salmon and Edward D.C. Campbell, Jr., *The Hornbook of Virginia History*, 4<sup>th</sup> ed. (Richmond: Library of Virginia, 1994), pp. 10-14.

<sup>4</sup> *Ibid.* pp 14-15.

<sup>5</sup> *Ibid.* pp 14-17, 159

<sup>6</sup> *Ibid.* p. 159.

they were palisaded forts.<sup>7</sup> However, once greater stability was achieved, westward migration accelerated and newer population centers formed from the discovery of resources and other physical assets beneficial to commerce and trade.<sup>8</sup> Furthermore, the need for cities and towns was a consequence of available transportation options. Without most modern-day transportation options, the reasonable distance one could travel was by foot or horse. Density made logical sense; therefore, it was through that condition that cities and towns became commercial, industrial, and cultural urban hubs.

### **Local Responsibilities, Independent Cities, and Annexation**

Throughout these changes, local governments were created for more efficient service delivery to citizens. The scope and variety of services evolved and grew over time, especially as society became more complex and additional services, such as free public education, were considered a right to every citizen. What began as the general law and order and ministerial services of county local government in the 1600s and 1700s, grew to include k-12 education, transportation, community development, elections, public health, and others. Furthermore, the breadth of services provided and/or mandated depended on the type of community, which was largely influenced by development patterns. Given the urbanized density of cities and towns, a greater array of services (e.g. water, sewer, police, fire, public transportation, etc.) were needed and provided through the granting of municipal charters.<sup>9</sup> Counties, however, traditionally remained rural and served as subdivisions of the state to administer general law.<sup>10</sup>

While towns were established as component units of counties and shared some service responsibilities, cities instead were established as being wholly independent from their surrounding county or counties – unlike any other state in the nation.<sup>11</sup> Of the 41 existing independent cities in the United States, 38 are located in Virginia. While several legal references were made to Virginia’s independent cities post-Reconstruction, the distinction was not officially recognized and explicitly stated until the current 1971 Constitution.<sup>12</sup> Due to their independent status, cities in the Commonwealth – by default – do not share services and tax bases with counties. While one benefit of this arrangement has been the lack of double-taxation, the independent status of cities in Virginia has also been one of its most debated and controversial measures.

As cities and towns grew denser and newer ones formed, demand for urban services in the developing vicinity also grew. Consequently, annexation allowed cities and towns – the traditional providers of such urban services – to expand their boundaries to meet these needs and connect to communities of interest. It also expanded their tax bases through existing and future development, which helped pay for growing service demands. Initially, given the dichotomy of dense urban cities and

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<sup>7</sup> Ibid. p. 21

<sup>8</sup> Ibid. pp. 24-25.

<sup>9</sup> Virginia General Assembly Special Commission, Local Government Structures and Relationships. (Richmond, 1990), Appendix B

<sup>10</sup> Ibid.

<sup>11</sup> Emily J. Salmon and Edward D.C. Campbell, Jr., The Hornbook of Virginia History, 4<sup>th</sup> ed. (Richmond: Library of Virginia, 1994), p. 89.

<sup>12</sup> Ibid.

towns relative to their rural, more sparsely populated county counterparts, annexation was usually not controversial. With most population concentrated in cities and towns, the extension of urban services to outlying areas was seen as a positive for regions overall. Reflecting this view, the matter was reviewed at the state level by Special Acts of the Assembly.<sup>13</sup>

### **Urbanization of Counties and Annexation Disputes**

In the decades leading up to World War II and shortly after its end, the development patterns of the United States rapidly changed. Increased production of the automobile and creation of Interstate Highways opened up previously rural counties to more urbanized development. Many federal programs offered some returning veterans and their family assistance to purchase homes in these areas. Simultaneously, the era of Jim Crow, segregation, housing discrimination, and others promoted an era of “white flight” from cities. These circumstances contributed in many ways to the dawn of many of the nation’s first suburbs. Generally, these areas were (and continue to be) less dense but still urbanized with mostly single-family homes and other non-residential uses customary to the environment. Consequently, many formerly rural counties surrounding traditional central cities and large towns faced rapidly growing populations and commercial bases that demanded many of the same urban services traditionally provided by cities and towns. As this trend continued, so, too, did an exodus of wealth and stability for many cities. Poverty, which was once a mostly rural issue before 1960, began to reverse with most areas of concentrated poverty becoming isolated in cities (Appendix E).

Simultaneously, the traditional view of city annexation changed. While it would have been a reasonable action for cities to address the growth and service demands outside their boundaries, its success could jeopardize the fiscal sustainability and viability of counties because of the winner-take-all scenario resulting from independent city status. Many counties had begun to provide similar urban services so some arguments for the necessity of annexation diminished. Moreover, many other issues of the time, especially race relations, segregation, and discrimination, transformed annexation into a topic outside of its traditional perspective and into one that was vehemently opposed by some citizens.

These and many other issues contributed to the final decades of city annexation escalating into significant, expensive, time-consuming lawsuits – some of which even made their way to the United States Supreme Court.<sup>14</sup> A spirit of distrust, competition, and hostility between the Commonwealth’s cities and counties ensued which ensnared citizens, businesses, and elected officials, alike. Some communities opted to prevent future annexations from neighboring cities by becoming consolidated cities, themselves. One prime example of this tactic is the concentration of adjacent cities in the Hampton Roads region that were created to prevent Norfolk and Portsmouth from future annexation. Other counties became able to declare full or partial immunity from city annexation and the creation of new independent cities if they met criteria equating as being sufficiently urbanized.<sup>15</sup>

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<sup>13</sup> Virginia General Assembly Special Commission, Local Government Structures and Relationships. (Richmond, 1990), Appendix B

<sup>14</sup> U.S. Supreme Court City of Richmond v. United States, 422 U.S. 358 (1975)

<sup>15</sup> Sections 15.2-3300 et seq.

Despite the relief this placed on certain regions of the Commonwealth, annexation continued to remain a divisive issue for communities where it was still possible. Consequently, many other high profile, costly, and lengthy legal battles ensued between communities such as the City of Harrisonburg and Rockingham County<sup>16</sup> and the City of Danville and Pittsylvania County.<sup>17</sup> Meanwhile, counter to the volatility of city annexation, town-initiated annexations continued to proceed, likely – in part – due to the more harmonious, overlapping nature of town and county structures in the Commonwealth.

### **Efforts to Address Local Structures and Annexation Issues**

The growing disputes and animosity over annexation and many related issues prompted the General Assembly to examine the matter more closely on multiple occasions to determine if a workable solution could be identified and implemented. On two such occasions, in 1971 and 1987, the General Assembly also issued a temporary moratorium on annexation while a workable solution could be identified. Some of the recommendations from these studies were implemented in some way, including:

- Creation of regional planning districts (today's current Planning District Commissions (PDCs))
- Inclusion of the term "regional government" in Article VII of the Virginia Constitution
- Establishment of CLG to review annexation and interlocal agreements/transitions prior to court
- Full/partial immunity from annexation/new independent cities for urbanized counties
- Additional funding for law enforcement, constitutional officers, social welfare, and highways

The most recent significant study on this subject was the Commission on Local Government Structures and Relationships (Grayson Commission) in 1990. It suggested that the meaning of "independent" cities be redefined so that a city was considered independent if was capable of sustaining itself without the need for annexation. Further, it claimed a population of 125,000 was a sufficient threshold for achieving a balanced economy of scale. Consequently, it recommended that cities with a population size greater than 125,000 remain wholly independent while those below the threshold be allowed to become towns or component units of counties ("Class A Cities") with the ability to annex by ordinance. It recommended granting the CLG final authority over the approval of boundary adjustments, local transitions, and consolidations. It also suggested state funding be held harmless for five fiscal years following various local consolidations, which has been instrumental in assisting with transitions related to such cases.

Despite the numerous studies identifying and sometimes implementing recommendations on the topic, Virginia local government structure – with a few exceptions – has remained the same for over 30 years. In many cases, this has allowed suburban counties in Virginia to achieve greater relative wealth and prosperity than their urban neighbors. Meanwhile, many traditional cities have experienced decades of decline and adversity with potential significant consequences for those who remained. Moreover, similar challenges are also occurring in other more rural regions of the Commonwealth for other reasons. The following section will look at this matter more closely from a variety of perspectives.

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<sup>16</sup> Commonwealth of Virginia, Commission on Local Government. Report on the City of Harrisonburg – County of Rockingham Annexation Case (1981).

<sup>17</sup> Commonwealth of Virginia, Commission on Local Government. Report on the City of Danville Annexation Action and County of Pittsylvania Partial Immunity Act (1984).

## Context: Virginia Local Government in the Modern Day

Despite the moratoria, there have been some noteworthy changes to local governments since 1987. Population growth, settlement patterns, local statuses, and fiscal matters have all continued to change over the last 30 years in a way that sometimes blurs the distinction between cities and counties. Moreover, they raise the importance of regional matters and needs from two perspectives: individual regions and two statewide regions (the Urban Crescent and Rural Horseshoe). Altogether, this suggests that more interlocal and regional approaches may be necessary to better address these and other future challenges in addition to more standard fiscal and structural considerations.

### Population Growth

First, population has continued to increase in many of the suburban counties surrounding traditional cities. When viewing this pattern overall, counties have gained the largest share of population growth in the Commonwealth compared to cities. Since 1990, the Census year closest to enactment of the 1987 moratoria, counties have grown by more than 50%, which is five times the city rate of slightly more than 10% and greater than the statewide rate of just over 36%.<sup>18 19</sup> Prior to the moratoria, from 1900 to 1990 cities grew by 630%, while counties grew by just over 150%, and the state grew by over 230%.<sup>20</sup> Some of this city growth is likely because of annexation. When considering this information regionally, as it relates to the metropolitan portions of Core-Based Statistical Areas (CBSAs), these areas have consistently been the dominant population growth engines of the Commonwealth. From 1900 to 1990, metropolitan areas grew by nearly 360% while non-metro areas grew by just over 40%. After 1990, metro areas grew by over 40% while non-metro areas grew by under 7%.<sup>21</sup>

Proportionately, as of 2017, 70% of the state's population lives in counties and 30% are in cities, representing a 4% increase and decrease for counties and cities, respectively, since 2000.<sup>22</sup> This scenario is rather logical given that cities can only grow from within their existing, oftentimes largely built-out but static boundaries. It is reasonable to assume that the city growth rate would have been higher if cities had retained the power to annex.

Additionally, many counties are now larger and denser than cities. For example, Fairfax County is the most populous locality in the Commonwealth with a population greater than 1.1 million – nearly three

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<sup>18</sup> Steven Manson, Jonathan Schroeder, David Van Riper, and Steven Ruggles. *IPUMS National Historical Geographic Information System: Version 12.0* [Database]. Minneapolis: University of Minnesota. 2017. <http://doi.org/10.18128/D050.V12.0>

<sup>19</sup> University of Virginia, Weldon Cooper Center for Public Service. Virginia Population Estimates, July 1, 2017 Estimates: <https://demographics.coopercenter.org/virginia-population-estimates>

<sup>20</sup> Steven Manson, Jonathan Schroeder, David Van Riper, and Steven Ruggles. *IPUMS National Historical Geographic Information System: Version 12.0* [Database]. Minneapolis: University of Minnesota. 2017. <http://doi.org/10.18128/D050.V12.0>

<sup>21</sup> University of Virginia, Weldon Cooper Center for Public Service. Virginia Population Estimates, July 1, 2017 Estimates: <https://demographics.coopercenter.org/virginia-population-estimates>

<sup>22</sup> University of Virginia, Weldon Cooper Center for Public Service. Virginia Population Estimates, July 1, 2017 Estimates: <https://demographics.coopercenter.org/virginia-population-estimates>



hundred times the size of Norton, Virginia’s smallest city.<sup>23</sup> From a population density perspective, the City of Alexandria is still densest at greater than 10,500 persons per square mile, but the next densest locality is Arlington County – nearly 40 times denser than Suffolk, Virginia’s least dense city.<sup>24</sup>

Additionally, as some urbanized counties now resemble cities, a ripple effect is occurring through the urbanization of outlying rural counties that now resemble the first wave of suburban counties. These areas, referred to as exurbs, include counties such as Goochland, Loudoun, and Stafford that are on the periphery of suburban areas within a larger metropolitan region and are experiencing significant growth relative to their historically rural character. Furthermore, from a statewide regional perspective, the Commonwealth is also experiencing significant growth along the Urban Crescent. This is defined as the area from Northern Virginia south along the I-95 corridor to Richmond and then east along I-64 to Hampton Roads. Conversely, the more rural regions of the Commonwealth (Eastern Shore, Southside, Southwest, and parts of the Shenandoah Valley – recently referred to as the Rural Horseshoe<sup>25</sup>) have experienced low growth or – in many cases – population decline.

These characteristics run counter to how one would describe and define “city” and “county.” Furthermore, despite this blurring distinction where some counties have attained or exceeded the urbanized status of many cities, their legal classification as such remains, which affects the parameters through which they may operate (Appendix F). While some counties now possess additional powers traditionally reserved for cities<sup>26</sup>, this option is far from the norm and has been difficult for some counties to attain because it required a successful voter referendum or the effort failed to pass legislatively.

Conversely, some cities have explored and occasionally enacted changes to their legal structure through consolidation and reversion. Two or more units of local government may consolidate into a county or city subject to review and a successful voter referendum.<sup>27</sup> Accordingly, the last successful consolidation occurred in 1974 when the City of Suffolk consolidated with Nansemond County to form the City of Suffolk. Nine subsequent consolidation efforts have failed at the voter referendum stage<sup>28</sup> generally because of local identity obstacles. Reversion, where cities with a population less than 50,000 may become a town, has been more successful because it does not involve a voter referendum. Since its enactment, three reversions have occurred<sup>29</sup> and several others have been discussed, including most recently by Petersburg as an option to address its recent fiscal distress difficulties.

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<sup>23</sup> Ibid.

<sup>24</sup> Ibid.

<sup>25</sup> Commonwealth of Virginia, Virginia Community College System. <http://www.vccs.edu/giving/rural-horseshoe-initiative/>

<sup>26</sup> Sections 58.1-3817 et seq., 58.1-3819 et seq., 38.1-3830 et seq., 58.1-3833 et seq., 58.1-3840 et seq.

<sup>27</sup> Section 15.2-3500 et seq., 15.2-3520 et seq.

<sup>28</sup> Commonwealth of Virginia, Commission on Local Government. “Past Consolidation Efforts in Virginia” (2015), <http://www.dhcd.virginia.gov/images/clg/docs/Consolidation%20History.pdf>

<sup>29</sup> Commonwealth of Virginia, Commission on Local Government. “City Transition to Town Status in Virginia” (2015). <http://www.dhcd.virginia.gov/images/clg/docs/CompletedReversions.pdf>

## Local Government Fiscal Stress

Similar to Petersburg's situation, in most cases, consolidation or reversion were pursued to alleviate fiscal stresses resulting from the mandate to provide services while facing a limited or shrinking tax base, reductions in funding, and other significant socioeconomic challenges. Without the traditional option of annexation to grow their fiscal base and absorb growth occurring since the moratoria's enactment, consolidation and reversion have been viable alternatives for some cities to consider alleviating fiscal stresses. Through such actions, cities may achieve greater economies of scale by merging some or all mandated services, such as k-12 education – representing approximately 54% of local expenditures, on average<sup>30</sup> – with a county.

Echoing these fiscal challenges for cities, the CLG's Fiscal Stress Index has consistently ranked cities as having greater levels of fiscal stress relative to counties. The report illustrates a city or county's ability to generate additional revenues from its tax base relative to the rest of Commonwealth. It is a statistical averaging of relative scores based upon revenue capacity, revenue effort, and median household income. The index weighs all three variables evenly which are defined as:

- (1) revenue capacity – the revenue a locality could generate if it taxed at statewide average rates,
- (2) revenue effort – a ratio of a locality's actual tax collections to its revenue capacity, and
- (3) median household income – the level where half of households earn more and half earn less.

The composite score is then compared to the statewide average, which is set at 100. Any score over 100 indicates above average or high fiscal stress and anything below 100 is below average or low fiscal stress, using standard deviations. For FY2015, 19 of the top 20 most fiscally stressed localities are cities.<sup>31</sup> The average city score is 102.94 and the average county score is 98.83. Despite the concentration of cities, some counties – especially in more rural regions (Southside, Southwest, parts of the Shenandoah Valley and Eastern Shore) – also experience elevated levels of fiscal stress as seen in Figure 1 on the following page. In some cases, as indicated by comments received during this report's public comment period, fiscal stress scores can be exaggerated in communities with high concentrations of tax-exempt property (e.g. college campuses, state-owned property, etc.), so additional indicators and analysis – beyond what has been conducted for this study – should be considered to compensate for any drawbacks in fiscal stress analysis.<sup>32</sup>

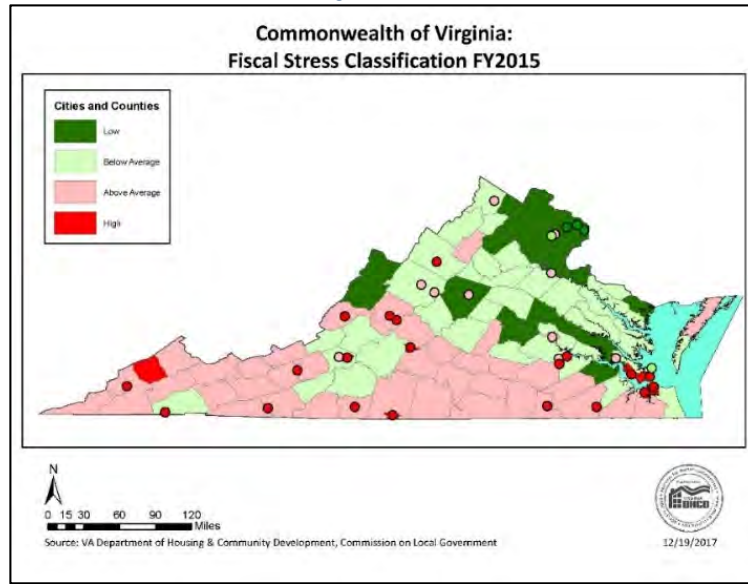
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<sup>30</sup> Commonwealth of Virginia, Auditor of Public Accounts. "Comparative Report on Local Government Revenues and Expenditures for the Fiscal Year Ended June 30, 2014," Amended February 1, 2016. [http://www.apa.virginia.gov/APA\\_Reports/LG\\_ComparativeReports.aspx](http://www.apa.virginia.gov/APA_Reports/LG_ComparativeReports.aspx)

<sup>31</sup> In descending order: the Cities of Emporia, Franklin, Petersburg, Martinsville, Buena Vista, Galax, Bristol, Hopewell, Lynchburg, Portsmouth, Radford, Norfolk, Covington, Danville, Norton, Newport News, Hampton, Roanoke; Dickenson County; and the City of Lexington.

<sup>32</sup> While tax-exempt property can exaggerate fiscal stress for some communities, the sources of the tax exempt property, such as universities, can be strong economic engines for a community. The balance between the taxes foregone compared to the economic activity generated by such uses would be difficult to quantify.

Figure 1



Because fiscal stress is a relative measure of tax bases and the degree those bases are taxed, it seems reasonable comparing fiscal stress and local/state expenditures for mandated services (Appendix G). Most localities with elevated local/state expenditures and fiscal stress are cities (73.7% and 57.9% of all cities in Quadrant B of Figures 2 and 3, respectively). Most areas of lower local/state expenditures and fiscal stress are counties (41.1% and 42.1% of all counties in Quadrant C of Figures 2 and 3, respectively). A majority (96.6%) of localities with elevated fiscal stress and local expenditures are cities, and the majority (58.5%) for state expenditures are counties (Quadrant B of Figures 2 and 3, respectively).

Figure 2

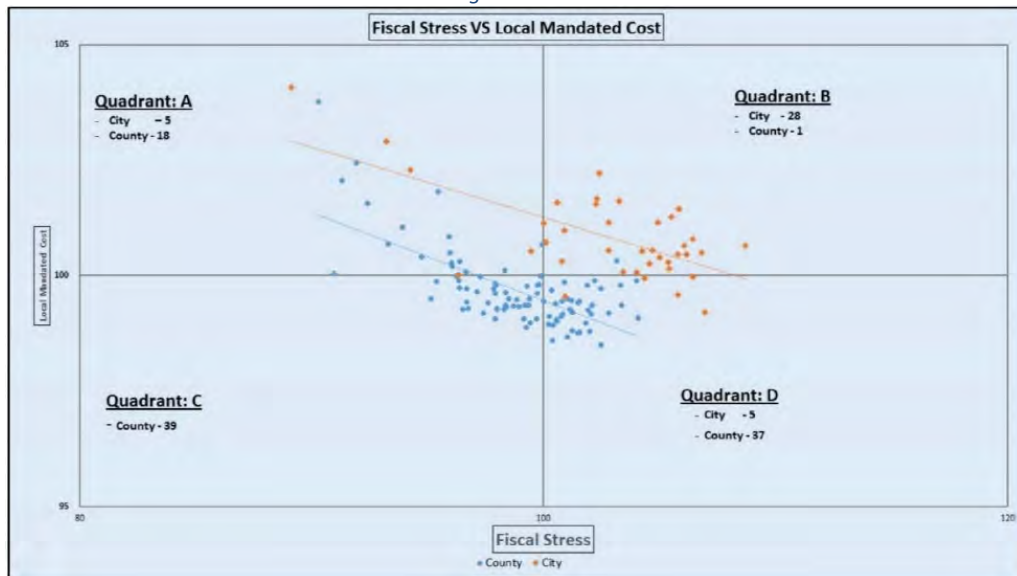


Figure 3

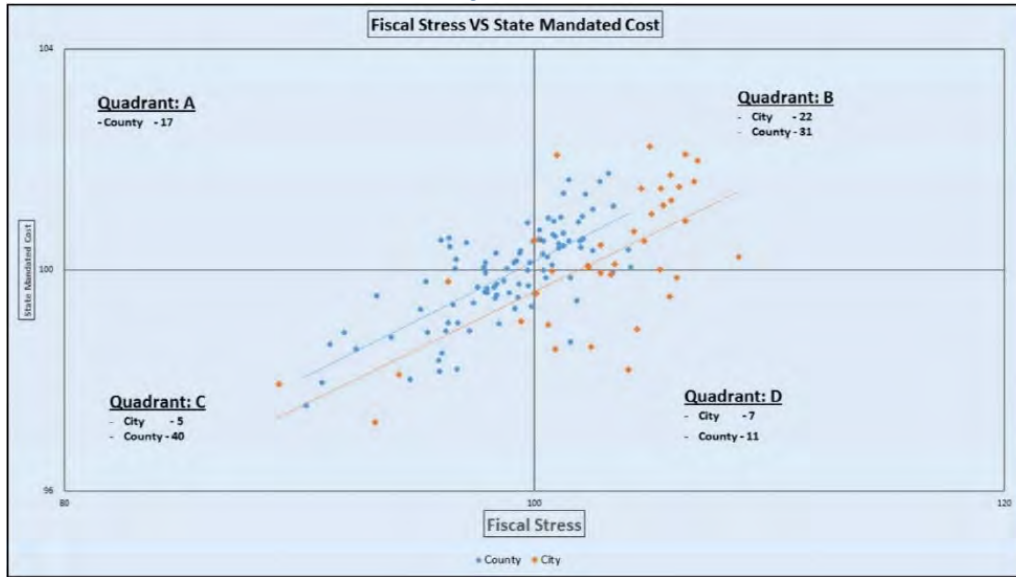


Figure 4 shows that elevated local expenditures and stress are primarily in cities (shaded red), and areas of elevated state expenditures and stress (Quadrant B of Figure 3) are mostly counties in Southside and Southwest Virginia and some cities (Figure 5). Nine localities – all cities – have higher local shares for mandated expenses (Figure 4), but the state share is lower (Figure 5). Eight counties and one city with elevated stress and lower local expenses (Figure 4) also have lower state expenses.

Figure 4

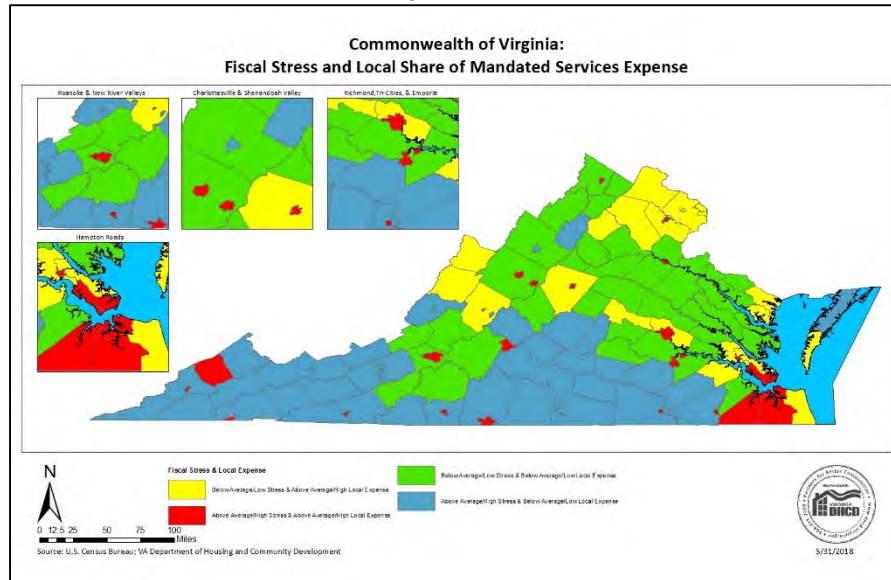
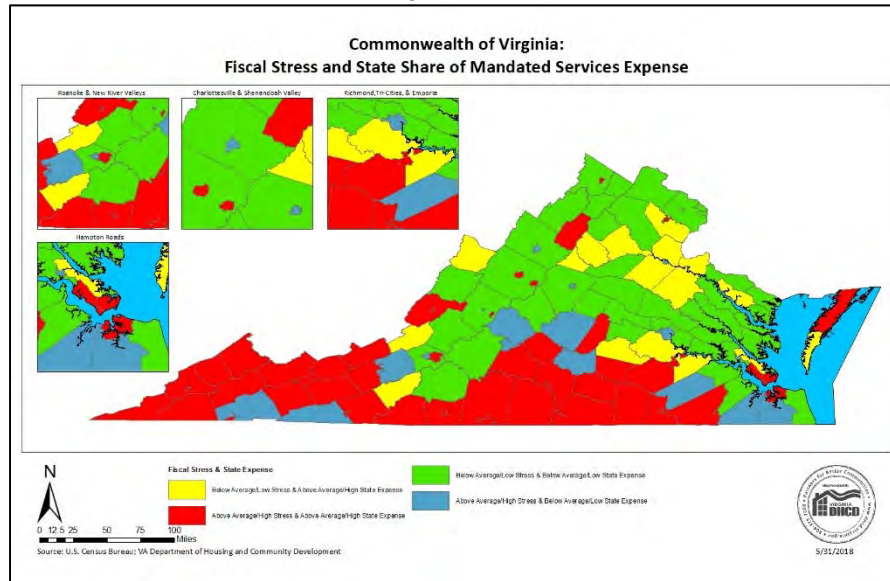


Figure 5



From a size perspective, fiscal stress is concentrated in smaller communities, which supports the benefits of economies of scale. Of the 97 cities and counties with a population of 50,000 or less, over half (57.7%) have above average or high fiscal stress. Even at below 100,000, 56.8% are classified with above average or high fiscal stress. A smaller share (29.4%) of cities and counties with a population greater than 100,000 experience above average or high fiscal stress. Moreover, when examining population size relative to local and state expenditures for mandated services, small cities (populations less than 100,000) are where elevated levels of fiscal stress and local/state expenditures occur (60.5% and 50% of all cities in Quadrant B of Figures 6 and 7, respectively), but small counties (32.6% of all counties) also experience similar circumstances.

Figure 6

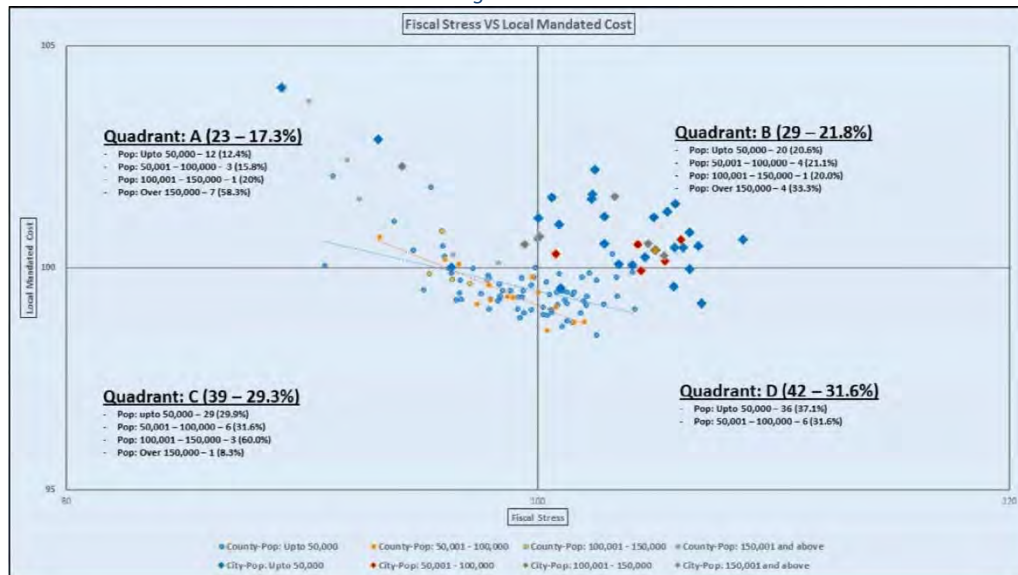
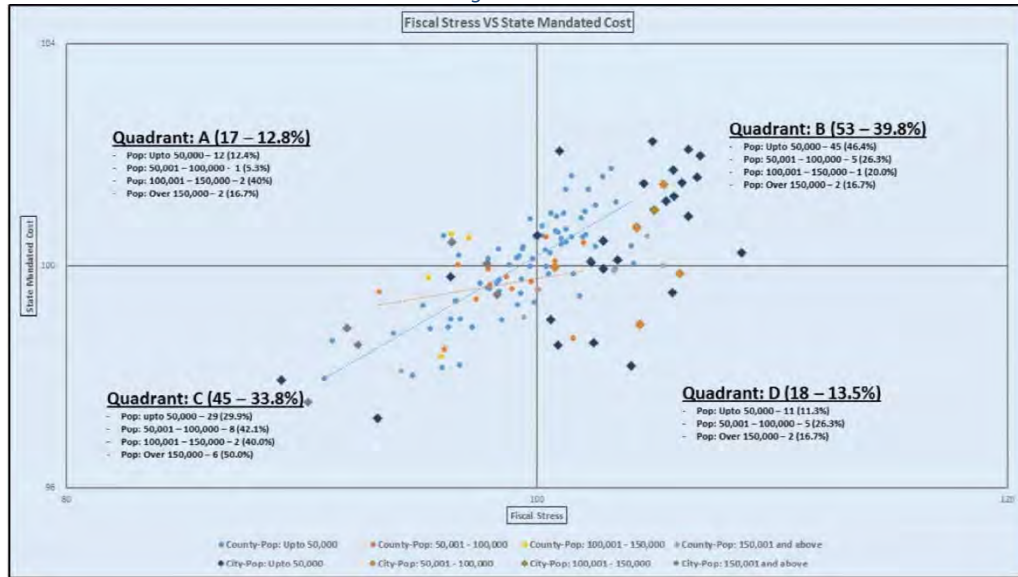


Figure 7



## Regional Matters

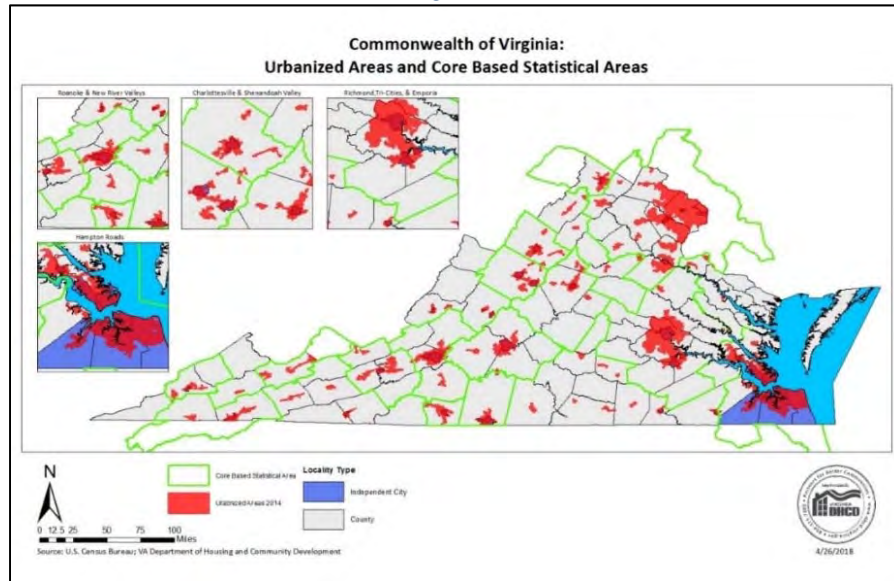
Hypothetically, without the moratoria and independent city status, local government boundaries may have changed based on two Census datasets. First, Urbanized Areas are densely settled cores of census tracts/blocks (500 to 1,000 persons per square mile) with adjacent non-residential urban land uses or lower populations linking other dense areas with the core (red areas in Figure 8)<sup>33</sup>. They cover the Commonwealth’s cities, many major towns, and surrounding counties. Alternatively, Core-Based Statistical Areas (CBSAs) containing a substantial population nucleus with adjacent communities having a high degree of economic and social integration (green outlines in Figure 8)<sup>34</sup>. Only six of the Commonwealth’s cities are outside of CBSAs. While these are purely theoretical scenarios, they illustrate how urbanized growth now transcends the boundaries of one city or county. They also illustrate how some cities may not yet be fully urbanized, but they are legally classified as cities, nonetheless.

<sup>33</sup> United States Census Bureau. “2010 Census Urban Areas FAQ.”

<https://www.census.gov/geo/reference/ua/uafaq.html>

<sup>34</sup> United States Census Bureau. “Geographic Terms and Concepts - Core Based Statistical Areas and Related Statistical Areas.” [https://www.census.gov/geo/reference/gtc/gtc\\_cbsa.html](https://www.census.gov/geo/reference/gtc/gtc_cbsa.html)

Figure 8



Despite growth and settlement patterns demonstrating how communities have grown regionally, disparities and stark differences in opportunity remain – oftentimes just across boundary lines within these regions – and within the context of communities that may no longer fully identify with or function based on those boundary lines. While the fiscal condition of urbanized counties was protected because of the moratoria, the fiscal condition of some cities deteriorated due to factors such as concentrated poverty, shrinking tax bases, and greater demand for services from those who remain with limited options or resources for their city to address those issues.

Notwithstanding these differences, in some cases, the issues are spreading to counties, especially urbanized counties, while some cities have experienced a rebound in desirability resulting from an influx of millennials and empty nesters.<sup>35</sup> This has led to the gentrification of many formerly working-class or impoverished areas as former residents are pushed to outlying areas, oftentimes to the inner-ring suburbs built when counties first urbanized.<sup>36</sup> Additionally, modern day issues such as the opioid epidemic and the Great Recession have had a more regional footprint and affected cities and counties, alike.

Furthermore, additional changes in the global and national economy have influenced population growth and migration patterns in other parts of the state. As one large segment of the state continues to be the dominant growth engine, other areas have lagged behind. On one hand, Virginia’s economy is defined by the Urban Crescent, which is the largely urbanized and suburban, representing 68% of the population and 79% of the state’s growth domestic product on only 24% of the land area. Conversely, and with some exception, the remainder of the state is comprised of largely rural areas with smaller

<sup>35</sup> Juday, Luke J. “The Changing Shape of American Cities.” University of Virginia, Weldon Cooper Center for Public Service. 2015. [https://demographics.coopercenter.org/sites/demographics/files/ChangingShape-AmericanCities\\_UVA-CooperCenter\\_February2015.pdf](https://demographics.coopercenter.org/sites/demographics/files/ChangingShape-AmericanCities_UVA-CooperCenter_February2015.pdf)

<sup>36</sup> Ibid.

cities and towns scattered throughout. This covers the Eastern Shore, Shenandoah Valley, Southside, and Southwest Virginia and has often been referred to as the Rural Horseshoe.

The result of these factors is that there is considerably more fiscal stress upon cities as well as other localities in certain regions of the Commonwealth experiencing economic and population contraction. As it relates to the difficulty for these local governments to effectively deliver quality services to residents, geography in some cases potentially contributes to socioeconomic challenges such as the achievement gap, access to jobs, income inequality, and others. These and other issues are of growing importance to the viability of many of the Commonwealth's local governments because they pose a threat to the well-being of the Commonwealth overall. It is through a more harmonious relationship among localities in each region and between the Commonwealth and its localities that greater health, welfare, and prosperity for all of the Commonwealth's citizens and businesses can be ensured.

## **Alternatives to the Moratoria: Preamble**

While one potential suggestion for this study could have been to raise the annexation moratoria, this option was considered highly unlikely and problematic. First, while the Commonwealth continues to urbanize, it is still largely a state with a majority county interest. Not only are the majority of local governments in the Commonwealth counties (95 counties and 38 cities); but, as stated earlier in this report, 70% of the Commonwealth's population is contained within County jurisdictions. Ironically, these proportions would likely have been different because the urbanization contributing to some of this growth would have likely been encapsulated by cities through annexation. With the exception of the 1930s, the decennial growth rate for cities exceeded counties and the state from 1900 until the end of the 1960s. From the 1970s onward, when the moratoria were enacted, this trend reversed and the growth rate for counties now exceeds that of cities and the state. Nevertheless, in consideration of the facts behind population distribution in the Commonwealth relative to city and county status, the likelihood that an effort to raise the moratoria would succeed legislatively is low.

Second, raising the moratoria would likely lead to additional costly legal battles among the remaining cities and counties where annexation is still possible nor would it solve underlying issues customarily alleviated by annexation. Six counties have already declared statutory immunity, and ten other counties appear eligible (Appendix H). Consequently, only 21 cities would be eligible to annex, but some face additional obstacles. Four have a neighboring county with partial immunity, and another four are surrounded by other cities thereby negating annexation altogether. Moreover, annexation would likely not solve underlying issues for most of the remaining 13 cities, especially as it relates to the economy and fiscal stress.<sup>37</sup>

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<sup>37</sup> Based on the CLG's FY2015 Fiscal Stress data, of the 13 identified cities adjacent to counties that are also classified as experiencing elevated levels of fiscal stress, 11 are adjacent to at least one county where fiscal stress levels are also elevated.



Raising the moratoria may also no longer be a desirable option for some cities, some of which are beginning to grow and revitalize. Generally, two significant demographic groups, millennials and baby boomers, are driving this change. They prefer mixed use, walkable communities with opportunities for transit, which many densely populated areas provide. While this has been beneficial for many cities, it has also pushed pockets of poverty out to the inner ring suburbs of surrounding counties due to rising costs of housing and other necessities. Notwithstanding the many related issues emanating from this matter, it seems logical that some cities would choose to forgo annexation because doing so could run counter to improving their financial bases.

Though the population eligibility threshold by which a town would choose to become a city is low (5,000 persons),<sup>38</sup> it seems unlikely that many towns would choose this option because of the potential for costly legal disputes with counties and other cost-prohibitive circumstances. Furthermore, many towns currently enjoy the benefit of shared services with counties, which would be negated by their newfound status as independent cities. While the matter has recently been discussed in some large towns<sup>39</sup> and has even been requested by other towns during the solicitation of public input for this study (Appendix C), overall, it would be in the best interest of the Commonwealth and the affected citizens for towns to be unable to become independent cities in Virginia. The General Assembly could consider additional ways for the Commonwealth's largest towns to change their status in some way, such as including the term "city" in their title while not functioning as independent cities. Additional evaluation of potential options would likely be necessary before a final policy could be implemented.

Finally, as the previous sections highlight and as echoed by some of the comments the Commission received during the course of its study, there are a number of broader matters for the Commonwealth to consider and address. Many of these broader topics highlight the need for an enhanced relationship between the Commonwealth and its 323 local governments in addition to how local governments work together. In some circumstances, the relationship has soured from additional unfunded mandates and various fiscal policy changes that have created an environment for localities to do more with less. By focusing on these matters – and other related issues – the Commonwealth may even be able to mitigate its independent cities' needs to grow that were traditionally addressed through annexation and also stimulate additional interlocal cooperation in harmony with the makeup of its regions.

For these reasons, the Commission suggests to consider making the annexation moratoria permanent. As they stand now, the moratoria have existed for over 30 years so establishing their permanency would not rescind any local government's ability that was recently exercised. However, the consequences for making the moratoria permanent – many of which have already been experienced during the last 30+ years of the moratoria's temporary status – should be mitigated. Additional structural and fiscal considerations are discussed in greater detail on the following pages. Again, the Commission would like to emphasize that making the moratoria permanent should not be the only outcome of this study, especially as it relates to ensuring that all of the Commonwealth's localities are

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<sup>38</sup> Section 1, Article VII of the Constitution of Virginia, §15.2-3602 of the Code of Virginia.

<sup>39</sup> Rannaivo, Yann. "Blacksburg to explore converting to city status." The Roanoke Times. March 21, 2017. [http://www.roanoke.com/news/local/blacksburg/blacksburg-to-explore-converting-to-city-status/article\\_b56d59fc-3578-5146-afb9-e40af0c98f3d.html](http://www.roanoke.com/news/local/blacksburg/blacksburg-to-explore-converting-to-city-status/article_b56d59fc-3578-5146-afb9-e40af0c98f3d.html)

maintained as viable communities in which their citizens can live. There could be some opposition to some of the considerations in these sections, especially those that may threaten local identity or make certain local elected positions obsolete as a result of reversion or consolidation. While the Commission has no accompanying recommendation to address these matters, it would like to encourage the Commonwealth to continue to put the best interests of its citizens ahead of local political identity when taking into account these considerations.

## Structural Considerations

### Modify reversion and consolidation statutes to remove obstacles

- Allow cities reverting to town status to retain “city” title in a different form
- Remove or alter the required voter referendum for local consolidation

Because of the stigma resulting from losing the title “city” as a result of reversion, the Commission suggests finding a way for the “city” title to remain but clearly distinguishing it from other independent cities in the Commonwealth.<sup>40</sup> These dependent cities would operate similar to towns but not have full powers reserved for cities. This would help overcome some local identity issues, which have been obstacles to previous considerations of reversion. If this is enacted, additional consideration may be needed to consider how to address the three former cities that reverted to town status. Furthermore, additional consideration may be necessary to avoid creating confusion regarding constitutional officers of existing cities and other ministerial staff who have similar titles.

One other way to alleviate issues of fiscal stress emanating from economies of scale is for two or more localities to consider consolidation. Although consolidation would benefit some localities, there are obstacles to making the process easier and more outcome driven, especially as it relates to the required voter referendum. This stage occurs after the localities have already spent significant time and money negotiating and reaching a consolidation agreement and after the CLG and courts have reviewed the case as directed by law. While earlier consolidation efforts have been successful, since 1974 every consolidation effort has failed at the referendum level with the voters – again usually because of the obstacles related to local identity. As such, it is costly and time consuming for localities and the Commonwealth to go through the process and have the initiative fail at the ballot.

Alternatively, reversion is a more unilateral process that does not require a voter referendum but does require the CLG and special court to review the case before an order granting reversion can be made. This review includes consideration of the probable impact upon the citizens affected by the consolidation and opportunities for public comment before the CLG. Therefore, a viable improvement to the consolidation process could be to remove the voter referendum requirement but still preserve the opportunity for public comment during other stages of the process. While Article VII Section II of the

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<sup>40</sup> There are two potential options to address this matter. First, for full implementation, an amendment to Article VII Section 1 of the Constitution of Virginia would be necessary to define this new form of city local government structure. Alternatively, various statutes, especially those governing reversion could be amended to include this term; however, from a constitutional standpoint, they would still be considered towns.

Constitution of Virginia requires a voter referendum for the organization of a regional government, it is silent on consolidation. Another alternative could be to keep the voter referendum, but the referendum would be collective rather than separate elections in each locality, which would represent the majority of opinions of those voting in the region instead of individual localities. Moreover, it would still provide an opportunity for voter input. An additional comment received related to this matter suggests that the localities choosing to proceed with a consolidation should be given the opportunity to choose which process (current process, referendum before the agreement, no voter referendum, collective voter referendum) to follow for addressing the consolidation effort.

There was discussion regarding what additional powers – if any – could be conferred upon special courts to clarify the conditions that they may impose during reversion cases. A dispute arose during the first reversion case between the former City of South Boston and Halifax County with the matter ultimately being resolved by the Supreme Court of Virginia. The Supreme Court held that the special court’s order on certain matters related to: (1) future annexation by the town, (2) town levels of service, (3) town water and sewer rates, and (4) unused town water and sewer capacity, were invalid as it related to the powers conferred to it via §15.2-4106 of the Code of Virginia (§15.1-965.16 at the time).<sup>41</sup> Some of the statutory considerations for conditions imposed by special courts could be seen as somewhat vague when compared to other more prescriptive statutes such as annexation.<sup>42</sup> While the two subsequent reversion cases in the Commonwealth were settled through the voluntary settlement agreement (VSA) process, which limits the courts’ conditional authority, it is reasonable to assume that future reversion cases could proceed through the standard reversion process. Consequently, special courts would have the final authority over entering orders to “adjust financial inequities” and “balance the equities between the parties” among other factors that all could have broad interpretations.<sup>43</sup> While the Commission does not have a formal recommendation on this matter, it encourages the General Assembly to consider additional ways to clarify how special courts can appropriately resolve such disputes through conditions but within the confines of legal precedent.

### Make reversion and consolidation more cost-effective through incentives

- Provide incentive funds to school divisions consolidating as a result of reversion or consolidation
- Provide funding for reversion and consolidation for a minimum of five years

One of the concerns for reversion and consolidation cases is the burden of taking on the other locality’s debt and expenses, which can be daunting. Furthermore, it can take time to resolve and adjust to the impacts of consolidation or reversion on local operations. In order to alleviate these burdens, there are some incentives offered to make the transition easier on localities.

The first incentive is specific to the consolidation of school divisions resulting from consolidation or reversion but is no longer available. Under this former incentive, the consolidated school system would have received funding based on a previously prescribed formula that was originally intended for one

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<sup>41</sup> *CITY OF SOUTH BOSTON v. HALIFAX COUNTY*. Supreme Court of Virginia. February 25, 1994.

<sup>42</sup> §15.2-3211 of the Code of Virginia.

<sup>43</sup> §15.2-4106 of the Code of Virginia

specific consolidation but remained in state code indefinitely.<sup>44</sup> Consequently, future school division consolidations exposed the Commonwealth to significant, unintended fiscal obligations. A resulting JLARC study revealed that it was cost prohibitive for the state to fund the school divisions in such a way so the incentive was eliminated and no replacement has been enacted. Despite the arbitrary nature by which the funding formula was derived, it was essential in incentivizing other reversions and or consolidations to be discussed and/or take place. Given that school division expenses represent more than half of local governments' expenditures, it is imperative for a similar incentive – without the previous high-cost exposure to the state – to be implemented.<sup>45</sup>

The current budget language reads *“Notwithstanding the funding provisions in § 22.1-25 D, Code of Virginia, additional state funding for future consolidations shall be as set forth in future Appropriation Acts.”* The General Assembly should consider replacing the previous financial incentive with a new one for at least a minimum five-year duration. At the request of the General Assembly, the CLG recommended a formula in a 2015 study that would have used its Fiscal Stress Scores as the basis for allocating funding while avoiding potentially high exposure to the state based on the previous formula. Moreover, it would have directed the incentives to localities that would need it most: those with elevated levels of fiscal stress.<sup>46</sup> The Commission encourages the General Assembly to reconsider implementing this proposed incentive.

Notwithstanding school division consolidation incentives, “hold harmless funding” is still available to local governments that go through reversion or consolidation. It distributes money to the localities as though they remain separate entities by distributing the same funding for 15 or 20 years for reversion and consolidation, respectively. This option has been useful to localities so that they can more gradually transition and scale their operations over time rather than immediately upon the effective date of a reversion or consolidation. Moreover, many have mentioned that its usefulness helps bring localities to the negotiating table early in the discussions of potential reversion or consolidation. While JLARC concluded that the provision can be cost prohibitive to the state<sup>47</sup>, the Commission believes that this cost, overall, is relatively low. Reversions and consolidations have historically occurred infrequently, and both lead to changes in local government operations that would likely yield some state savings over the long term. In an effort to balance state funding while also incentivizing reversions and consolidations, the Commission suggests that hold harmless funding be provided for a minimum of five years and that additional consideration be given to additional funding beyond the five-year limit at a declining rate (e.g. additional five years, declining by 20% each year).

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<sup>44</sup> Commonwealth of Virginia, Commission on Local Government. “Report on Local Government Consolidation Incentives.” Report Document 425. November 2015. <https://rga.lis.virginia.gov/Published/2015/RD425/PDF>

<sup>45</sup> APA Local Government Comparative Reports, 2016 data.

<sup>46</sup> Commonwealth of Virginia, Commission on Local Government. “Report on Local Government Consolidation Incentives.” Report Document 425. November 2015. <https://rga.lis.virginia.gov/Published/2015/RD425/PDF>

<sup>47</sup> Commonwealth of Virginia, Joint Legislative Audit and Review Commission. “Local Government and School Division Consolidation.” House Document 14. September 2014. <http://jlarc.virginia.gov/pdfs/reports/Rpt458.pdf>

## Grant additional powers to counties through reversion and other interlocal agreements

- Grant/relax taxing and debt powers/limits to counties affected by reversion
- Grant/relax taxing and debt powers/limits to counties that participate in economic growth-sharing agreements

In the event of reversion, the General Assembly may want to consider giving counties additional powers as an incentive. These incentives could be used to make the reversion process more cooperative between the two localities and avoid the potential for legal disputes, which occurred in some previous reversion cases. Such powers could include additional taxing and debt powers that are otherwise reserved for cities. Furthermore, other limitations to existing county powers, such as certain tax rates, could be elevated or made equal to what was available to the city. As a way to ease reversion cases that include long-term fiscal obligations for counties or will affect the county in some other fiscal way, counties could be granted a waiver from the referendum requirement. In many cases, it stands to reason that the long-term debt would in some way be benefiting a region rather than just the county. With respect to additional debt powers being granted to counties unilaterally through reversion, rather than via referendum, an amendment to the Constitution of Virginia will be necessary.<sup>48</sup>

Counties also face additional obstacles when entering into various interlocal agreements that contain economic growth sharing provisions or other long-term fiscal obligations. Because of the aforementioned constitutional requirement, counties must make such fiscal obligations subject to annual appropriation, thereby diluting the certainty of the agreement. Moreover, their ability to share various revenue streams as part of interlocal agreements is impeded by the statutory limitations by which they may tax. One way to encourage additional economic growth sharing agreements between cities and counties and towns and counties could be to give counties the same taxing authority as any city or town for which they agree to share revenues for the duration of such agreements. Similar consideration could also be made for county debt powers on the condition that the county participates in economic growth sharing with a city or town. Again, the same constitutional amendment previously discussed would apply.<sup>49</sup>

The Commission received several requests to grant equal taxing authority to all counties as one of the considerations for this report. While counties and cities, alike, have expressed this request for many years, the Commission chose not to recommend granting this power unilaterally to counties. Given the limitations the moratoria placed on cities' ability to grow and the accompanying disparities linked to such limitations, the Commission felt the power of equal taxing authority should only be granted to those counties that choose to cooperate with cities and towns – whether through reversion or economic growth-sharing agreements. Doing so will encourage greater cooperation among these political subdivisions and echo how their economies function on a regional level while retaining geopolitical independence.

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<sup>48</sup> Article VII, Section 10, Constitution of Virginia.

<sup>49</sup> Ibid.

## Evaluate mandated service delivery methods to identify appropriate service level

In some regards, cities have struggled to stably generate revenue to meet public service demands because of the moratoria. Meanwhile, more urbanized and populated counties and those with limited economic bases have also begun to experience similar circumstances. In the context of where city and county boundaries meet, especially where suburban poverty abuts city poverty, the boundaries between each locality become somewhat arbitrary as it relates to service needs for these communities. There is more in common with these communities, and they therefore could be considered communities of interest – a standard by which annexation cases are reviewed. Nevertheless, the boundary line that separates the community of interest also separates the outcomes and opportunities that those within the community may experience or benefit.

A JLARC study from 1993 echoed many similar points and offered numerous suggestions – some of which are noted in this report – for ways to address these circumstances.<sup>50</sup> The report concluded that localities were spending more than the state; but in order to achieve greater common wealth and prosperity across the state, the state should take a greater role. The report cited regional jails as a success and suggested that environmental protection, economic development, education, and other capital-intensive efforts could be other opportunities for greater success.

Given that it has been over 20 years since the JLARC study was conducted, the General Assembly should consider a new evaluation of state-funded public services and re-assess the appropriate delivery level. In some cases, the best approach may be different based on the region of the Commonwealth or based on the size of the population evolved. Therefore, it may be more appropriate for the adjacent localities to have joint service coordination or perhaps have the state administer certain services to the region. In circumstances where the need is more widespread at a regional level and a city-county distinction does not exist, other regional service delivery options may be more appropriate instead. Many localities participate in a variety of joint service delivery arrangements, so such analysis could also include an investigation of best practices and any need for amendments to State Code.

## Relax the requirements for the establishment of joint authorities and special districts

- Consider more uniform procedures for establishment of authorities and districts
- Consider expansion of financial tools available to authorities and districts
- Focus on regional incentives and flexibility when considering new legislation

While numerous options, such as the Joint Exercise of Powers,<sup>51</sup> are available for localities to establish joint operations and service deliveries at a more efficient level, many other procedural and structural requirements make the process unpredictable or cumbersome. Several such authorities require a successful referendum to be established, others require a circuit court order, and many others

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<sup>50</sup>Commonwealth of Virginia, Joint Legislative Audit and Review Commission, “State/Local Relations and Service Responsibilities: A Framework for Change,” Senate Document No. 37 (1993)

<http://jlarc.virginia.gov/pdfs/reports/Rpt150.pdf>

<sup>51</sup> § 15.2-1301 of the Code of Virginia.

simply form by ordinance of the governing body.<sup>52</sup> From a structural standpoint, very few such authorities have taxing power, and many others also have limited bonding authority or such power depends on other entities such as the Commonwealth issuing such bonds.<sup>53</sup> Furthermore, some local government functions, including those involving significant state and local costs, such as k-12 education, are not identified as services that may be delivered through a joint authority or district. While such a joint action may be possible through the Joint Exercise of Powers, a more uniform and streamlined approach could be established via statute in anticipation of regional efforts to address such a service delivery method.

Accordingly, the Commonwealth should evaluate and implement ways to streamline how Joint Authorities and Special Districts are formed and operated and consider other services not currently eligible for delivery through such venues. In addition, when reviewing the tax code and introducing new legislation, the General Assembly should consider bills and acts that incentivize and offer regulatory flexibility to make it easier for localities to cooperate at a regional level. Progress has been made with this effort on topics such as economic development through the creation of GO Virginia, and it seems likely that other opportunities to encourage regional efforts may exist.

## Fiscal Considerations

### Provide planning grants to explore interlocal agreements and other operational efficiencies

Oftentimes, even though various interlocal agreements could benefit localities through improved economies of scale or more efficient service delivery, they are unable to research and investigate the benefits of such agreements because of the initial administrative or cost barriers. The creation of a program whereby an agency of the Commonwealth could review proposals for such interlocal agreements and provide matching grants to localities for a more thorough examination of these potential arrangements could be one way to help localities overcome these initial hurdles. Because the program would require matching local funds, it would be reasonable to assume that such agreements would be pursued with a more serious commitment by the localities.

The types of agreements covered by such planning grants could include interlocal agreements and transitions under review by the CLG, full or contractual consolidation of certain locally mandated services (e.g. school divisions, public health, etc.), joint authorities, and other cooperative options not codified but executable through special legislation. Other states, including Massachusetts,<sup>54</sup> Ohio,<sup>55</sup> and

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<sup>52</sup> Commonwealth of Virginia, Commission on Local Government. “Discretionary Authorities and Special Districts Available to Local Governments in Virginia.” 2009.

<http://www.dhcd.virginia.gov/CommissiononLocalGovernment/PDFs/Authorities.pdf>

<sup>53</sup> Ibid.

<sup>54</sup> Commonwealth of Massachusetts, Department of Revenue, Division of Local Services, Efficiency and Regionalization grant program. <https://www.mass.gov/efficiency-regionalization-grant-program>

<sup>55</sup> Ohio Office of the State Auditor, Performance Audits. <https://ohioauditor.gov/performance.html>

New York<sup>56</sup> offer opportunities for local governments to look into these matters from a regional perspective and intra-locally. Massachusetts, for example, provided about \$2 million in efficiency and regionalization grants in fiscal year 2018 on topics including shared public health and emergency services, regional economic development, school consolidations, and local efficiencies. The success of programs such as these could be replicated in the Commonwealth.

The Commonwealth does have a history of providing such services through school division efficiency reviews. The program appears to no longer be active, but a matrix of best practices gleaned from the ten years that the program was active summarizes the information for future use by school divisions. Some of the aforementioned states also share best practices gleaned through their programs, so the Commonwealth should consider a similar action if it chooses to re-activate and expand this program to other services and options.

### Evaluate adequacy of local fiscal resources to identify enhancements

Given the growing and diversifying national and state economy, many traditional revenue sources at the state and local level have evolved. Furthermore, demands for services have also changed and in many cases grown. As these two elements have shifted, existing financial tools and funding streams may no longer adequately collect revenue or provide aid at a sufficient level for delivery of services that have also grown or changed in some way. For example, despite the growing service-based economy, the Commonwealth's existing state and local option sales tax does not consider the sale of services to be a tangible good subject to such tax. In a similar vein, the communication sales and use tax may not match businesses activity as it stands today. Online streaming services that have grown significantly over the last decade did not exist and were not anticipated when such revenue streams were developed. Additionally, frequent recent efforts to alter or remove some local fiscal powers suggests that compromise may be necessary so that local taxing authorities are protected while also ensuring a business friendly climate. At least three studies explored some of these issues in 1998 and 2001; however, many of their recommendations have yet to be implemented.

Moreover, various local funding streams at the state and federal level have changed or been reduced over time, especially most recently in response to the Great Recession. However, even as the economy has stabilized, many of these reductions remain despite growing needs and prevailing local practices. For example, the Standards of Quality (SOQ) caps the number of k-12 support positions to one for every 4.17 SOQ-recognized teachers, but previous allocation was based on prevailing local practices. While all local governments are affected by these reductions, those with elevated stress levels may experience these and other consequences more acutely, which can perpetuate disparities and fiscal stress among localities and among regions.

Also, while there is a general distinction between mostly rural and suburban counties compared to more densely settled cities, there are many, growing exceptions to that rule as previously discussed. Despite these conditions, many existing laws continue to allocate powers and authority to communities based on their legal classification rather than on the reality of their settlement patterns, size, and

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<sup>56</sup> New York Department of State, Division of Local Government Services, Local Government Efficiency Program. <https://www.dos.ny.gov/lg/lge/index.html>



consequential service demands. Moreover, some more developed regions of the Commonwealth have the authority to collect certain regional taxes to address issues of greater than local significance, such as transportation, that are critical to their economies. While the other regions of the Commonwealth may have smaller economies comparatively, their economic vitality is no less important and their regional economies could benefit from similar regional revenue sources that could be used to enhance and fortify commerce-stimulating infrastructure within their regions.

The Commission recognizes the sensitivity of these issues – many of which are outside its purview; however, if the right of annexation is taken away from cities – which has been true for over 30 years with the existing temporary moratoria – then appropriate options and resources should be given to cities and many other similarly situated counties to address their fiscal needs while compensating for the loss of such a significant tool. Furthermore, in some cases, the funding compromise agreed to as it relates to the moratoria has not always been adhered to, which suggests that a new assessment and compromise may be necessary. Therefore, the Commission suggests that a study of all local funding streams and local fiscal powers be conducted relative to locally mandated services to determine whether such funding and powers are adequate to meet such service needs, including based on locality type and regions.

#### Create or expand programs to reduce local fiscal stress

- Establish a critically stressed localities fund to grow the tax bases and overcome service delivery challenges for fiscally stressed localities
- Consider greater prioritization of fiscal stress in programs that provide aid to localities

As interest in local government fiscal stress has continued to evolve, more evidence seems to point to the heavy fiscal burden that many local governments face. Fiscal crises such as what occurred in the City of Petersburg highlight communities with difficulties providing adequate services to their citizens and then faced near insolvency and explored local transitions when matters became more serious. While supplemental temporary financial and technical assistance by the Commonwealth helped the City stabilize, the City still had to make serious cuts to its budget and lay off employees for critical positions, including schoolteachers. The Commonwealth has taken proactive measures in response to this situation by establishing the Early Warning Fiscal Distress Detection System managed by the Auditor of Public Accounts (APA). The various ratios used in the system allow a uniform process to assess how well local governments are managing their finances and identify potential needs for state assistance.

The CLG's Fiscal Stress Index could also serve as another measure to allocate additional resources to localities with depressed economic bases. The index identifies communities that may not be able to sustain efficient and adequate mandated operations without straining their revenue bases with higher taxes, making significant cuts to critical services, or both. Accordingly, the Commonwealth should consider creating a critically stressed localities fund. Such a program could address economic base and service delivery challenges experienced by these communities that contribute to their elevated levels of fiscal stress. From an economic base perspective, the fund could help provide capital funding for construction or expansion of infrastructure, such as broadband. This could help stimulate and grow local economies and consequently generate more revenue for the locality and the Commonwealth. From a

service delivery perspective, such a fund could address important human service delivery needs such as teacher shortages in challenged schools, community wealth building programs, expanded workforce development programs, and other needs that strain local service demands but the improvement of which could grow local economies over time. Careful consideration may be necessary in balancing the deployment of this program with other local actions that may more appropriately address their stress, such as reversion or consolidation.

Alternatively, a variety of existing programs provide aid to localities and help stimulate economic development and improve mandated service delivery – both issues that contribute to local government fiscal stress – so consideration of these programs relative to creating a new program will help assess its overall need. Therefore, evaluation of these programs, such as the Commonwealth Opportunity Fund, and the extent to which they consider the CLG’s Fiscal Stress Index could also identify opportunities where gaps related to fiscal stress as a factor may exist.

#### Incentivize additional regional cooperation and regional programs.

- Consider restoring previous funding levels to Planning District Commissions
- Evaluate other state programs to identify opportunities for more regional focus

Given the regional paradigm in which many of the issues affecting the Commonwealth’s communities exists, solving these issues will also take a regional approach. Issues are no longer to exclusive to one locality or one type of locality. The Commonwealth has 21 Regional Planning District Commissions (PDCs) whose purpose is to encourage and facilitate local government cooperation in addressing, on a regional basis, problems of greater than local significance. These organizations have had a successful track record for meeting this mandate. For example, during the 2016 – 2018 biennium, PDCs conducted over 500 studies on issues and problems of regional significance, reviewed nearly 800 local government aid applications, and assisted state agencies in the development of substate plans 287 times.<sup>57</sup>

Despite these achievements, more could be accomplished by channeling additional efforts and resources through them. For example, these organizations reached their highest funding level in FY2004 when state appropriations ranged from \$81,274 to \$364,439. These appropriations now range between \$75,971 and \$151,943. While circumstances such as the Great Recession played a role in the decision to reduce this funding stream, the issues that they are required to address have grown. Some prime examples of these issues would include the increasing opioid epidemic, transportation needs, housing affordability, broadband, and workforce development.

Another potential way by which the Commonwealth could consider facilitating and incentivizing regional cooperation is to ensure that its various programs consider regional efforts when addressing need. This has already been accomplished from an economic development perspective through the

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<sup>57</sup> Commonwealth of Virginia, Department of Housing and Community Development. “Biennial Report to the Governor and General Assembly on Virginia’s Planning District Commissions for Fiscal Years 2017 and 2018.” September 2018. <http://www.dhcd.virginia.gov/images/clg/2017-2018%20Biennial%20PDC%20Report%20-%20Final.pdf>

creation of the GO Virginia program and through other efforts such as regional jails. However, there could be other opportunities for which this policy could be explored and/or expanded in the sectors of education, social services, and transportation.

## **Conclusion**

The Commission would like to emphasize that since the moratoria is unlikely to be lifted, the statute should remain intact. In light of this, other considerations should be taken to address issues that local governments encounter in the Commonwealth. Annexation in relation to independent cities is no longer a viable option for these communities to grow, and, in many cases, runs counter to the goal of fostering positive intergovernmental relations and building healthy regions. Significant matters have arisen or evolved that oftentimes eclipse individual local boundaries and in some cases, overwhelm local government capacity; annexation would not solve these matters. Local governments are a creation of the Commonwealth; and, in order to responsibly promote and sustain their viability, the Commonwealth should, when appropriate, enhance and strengthen existing local operations and encourage transitions, interlocal cooperation, and regional alternatives.

## **APPENDICES**

## **Appendix A: Study Directive**

# VIRGINIA ACTS OF ASSEMBLY -- 2016 SESSION

## CHAPTER 158

*An Act to amend and reenact § 15.2-3201 of the Code of Virginia, relating to annexation.*

[S 309]

Approved March 1, 2016

**Be it enacted by the General Assembly of Virginia:**

**1. That § 15.2-3201 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-3201. Temporary restrictions on granting of city charters, filing annexation notices, institutions of annexation proceedings, and county immunity proceedings.**

Beginning January 1, 1987, and terminating on the first to occur of (i) July 1, ~~2018~~ 2024, or (ii) the July 1 next following the expiration of any biennium, other than the 1998-2000, 2000-2002, 2002-2004, 2006-2008, 2008-2010, 2010-2012, 2012-2014, ~~and~~ 2014-2016, 2016-2018, 2018-2020, 2020-2022, and 2022-2024 bienniums, during which the General Assembly appropriated for distribution to localities for aid in their law-enforcement expenditures pursuant to Article 8 (§ 9.1-165 et seq.) of Chapter 1 of Title 9.1 an amount that is less than the total amount required to be appropriated for such purpose pursuant to subsection A of § 9.1-169, no city shall file against any county an annexation notice with the Commission on Local Government pursuant to § 15.2-2907, and no city shall institute an annexation court action against any county under any provision of this chapter except a city that filed an annexation notice before the Commission on Local Government prior to January 1, 1987. During the same period, with the exception of a charter for a proposed consolidated city, no city charter shall be granted or come into force and no suit or notice shall be filed to secure a city charter. However, the foregoing shall not prohibit the institution of nor require the stay of an annexation proceeding or the filing of an annexation notice for the purpose of implementing an annexation agreement, the extent, terms and conditions of which have been agreed upon by a county and city; nor shall the foregoing prohibit the institution of or require the stay of an annexation proceeding by a city which, prior to January 1, 1987, commenced a proceeding before the Commission on Local Government to review a proposed voluntary settlement pursuant to § 15.2-3400; nor shall the foregoing prohibit the institution of or require the stay of any annexation proceeding commenced pursuant to § 15.2-2907 or 15.2-3203, except that no such proceeding may be commenced by a city against any county, nor shall any city be a petitioner in any annexation proceeding instituted pursuant to § 15.2-3203.

Beginning January 1, 1988, and terminating on the first to occur of (i) July 1, ~~2018~~ 2024, or (ii) the July 1 next following the expiration of any biennium, other than the 1998-2000, 2000-2002, 2002-2004, 2006-2008, 2008-2010, 2010-2012, 2012-2014, ~~and~~ 2014-2016, 2016-2018, 2018-2020, 2020-2022, and 2022-2024 bienniums, during which the General Assembly appropriated for distribution to localities for aid in their law-enforcement expenditures pursuant to Article 8 (§ 9.1-165 et seq.) of Chapter 1 of Title 9.1 an amount that is less than the total amount required to be appropriated for such purpose pursuant to subsection A of § 9.1-169, no county shall file a notice or petition pursuant to the provisions of Chapter 29 (§ 15.2-2900 et seq.) or Chapter 33 (§ 15.2-3300 et seq.) requesting total or partial immunity from city-initiated annexation and from the incorporation of new cities within its boundaries. However, the foregoing shall not prohibit the institution of nor require the stay of an immunity proceeding or the filing of an immunity notice for the purpose of implementing an immunity agreement, the extent, terms and conditions of which have been agreed upon by a county and city.

**2. That the Commission on Local Government be directed to evaluate the structure of cities and counties in the Commonwealth and the impact of annexation upon localities. In doing so, the Commission shall consider alternatives to the current moratorium on annexation by cities. The Commission shall issue its findings and recommended policy changes to the General Assembly no later than December 1, 2018. During its evaluation, the Commission shall consult with and seek input from the Virginia Municipal League, the Virginia Association of Counties, and the localities directly affected by the current annexation moratorium. All agencies of the Commonwealth shall provide assistance to the Commission for this evaluation upon request.**

# VIRGINIA ACTS OF ASSEMBLY -- 2016 SESSION

## CHAPTER 364

*An Act to amend and reenact § 15.2-3201 of the Code of Virginia, relating to annexation.*

[H 945]

Approved March 11, 2016

**Be it enacted by the General Assembly of Virginia:**

**1. That § 15.2-3201 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-3201. Temporary restrictions on granting of city charters, filing annexation notices, institutions of annexation proceedings, and county immunity proceedings.**

Beginning January 1, 1987, and terminating on the first to occur of (i) July 1, ~~2018~~ 2024, or (ii) the July 1 next following the expiration of any biennium, other than the 1998-2000, 2000-2002, 2002-2004, 2006-2008, 2008-2010, 2010-2012, 2012-2014, ~~and~~ 2014-2016, 2016-2018, 2018-2020, 2020-2022, and 2022-2024 bienniums, during which the General Assembly appropriated for distribution to localities for aid in their law-enforcement expenditures pursuant to Article 8 (§ 9.1-165 et seq.) of Chapter 1 of Title 9.1 an amount that is less than the total amount required to be appropriated for such purpose pursuant to subsection A of § 9.1-169, no city shall file against any county an annexation notice with the Commission on Local Government pursuant to § 15.2-2907, and no city shall institute an annexation court action against any county under any provision of this chapter except a city that filed an annexation notice before the Commission on Local Government prior to January 1, 1987. During the same period, with the exception of a charter for a proposed consolidated city, no city charter shall be granted or come into force and no suit or notice shall be filed to secure a city charter. However, the foregoing shall not prohibit the institution of nor require the stay of an annexation proceeding or the filing of an annexation notice for the purpose of implementing an annexation agreement, the extent, terms and conditions of which have been agreed upon by a county and city; nor shall the foregoing prohibit the institution of or require the stay of an annexation proceeding by a city which, prior to January 1, 1987, commenced a proceeding before the Commission on Local Government to review a proposed voluntary settlement pursuant to § 15.2-3400; nor shall the foregoing prohibit the institution of or require the stay of any annexation proceeding commenced pursuant to § 15.2-2907 or 15.2-3203, except that no such proceeding may be commenced by a city against any county, nor shall any city be a petitioner in any annexation proceeding instituted pursuant to § 15.2-3203.

Beginning January 1, 1988, and terminating on the first to occur of (i) July 1, ~~2018~~ 2024, or (ii) the July 1 next following the expiration of any biennium, other than the 1998-2000, 2000-2002, 2002-2004, 2006-2008, 2008-2010, 2010-2012, 2012-2014, ~~and~~ 2014-2016, 2016-2018, 2018-2020, 2020-2022, and 2022-2024 bienniums, during which the General Assembly appropriated for distribution to localities for aid in their law-enforcement expenditures pursuant to Article 8 (§ 9.1-165 et seq.) of Chapter 1 of Title 9.1 an amount that is less than the total amount required to be appropriated for such purpose pursuant to subsection A of § 9.1-169, no county shall file a notice or petition pursuant to the provisions of Chapter 29 (§ 15.2-2900 et seq.) or Chapter 33 (§ 15.2-3300 et seq.) requesting total or partial immunity from city-initiated annexation and from the incorporation of new cities within its boundaries. However, the foregoing shall not prohibit the institution of nor require the stay of an immunity proceeding or the filing of an immunity notice for the purpose of implementing an immunity agreement, the extent, terms and conditions of which have been agreed upon by a county and city.

**2. That the Commission on Local Government be directed to evaluate the structure of cities and counties in the Commonwealth and the impact of annexation upon localities. In doing so, the Commission shall consider alternatives to the current moratorium on annexation by cities. The Commission shall issue its findings and recommended policy changes to the General Assembly no later than December 1, 2018. During its evaluation, the Commission shall consult with and seek input from the Virginia Municipal League, the Virginia Association of Counties, and the localities directly affected by the current annexation moratorium. All agencies of the Commonwealth shall provide assistance to the Commission for this evaluation upon request.**

## **Appendix B: Initial Public Comments**



## **STATEMENT TO COMMISSION ON LOCAL GOVERNMENT**

STAUNTON, VIRGINIA  
September 13, 2016

Mr. Chairman, members of the Commission:

I am Bill Robertson, Chairman of the Board of Supervisors of Prince George County. I have been a member of the Board of Supervisors since 2004.

### **PRINCE GEORGE**

Prince George County is located in south central Virginia adjacent to the Cities of Hopewell and Petersburg as well as a number of other cities and counties (Map 1). The County is comprised of 282 square miles with a current estimated population of 37,862. Since the Civil War, over 23.65 square miles have been taken from Prince George as the result of the incorporation of Hopewell as a city and numerous annexations since then by Petersburg and Hopewell.

The County is governed by a five-member Board of Supervisors elected from two elections districts. Prince George itself, provides most services that you would expect to see in cities. The County has recently received a number of upgrades in its bond rating and currently is rated as a AA+ locality. For the last 12 years, the County has received the GFOA Award for Excellence in government accounting.

### **ANNEXATION**

A short look at the history of annexation of Prince George County provides a perfect case study in why city annexation of adjacent counties is an archaic, outdated process that solves nothing and surprisingly; actually can cause harm to the annexing city in addition to the harm that it inflicts on counties. The annexation process also harms the State as a whole because it destabilizes citizens' expectations and complicates long-term investment decisions by businesses.

### **1971 ANNEXATION**

In the last successful annexation of Prince George by Petersburg in 1971, Petersburg obtained over nine (9) square miles of the County, in part because the City argued that it was better prepared to provide municipal-type services than Prince George and that the City needed more land for expected new development. The annexation also stripped Prince George of much of its commercial tax base.

### **1985 ANNEXATION**

Fast forward just 14 years, to 1985 and Petersburg was back at the table again seeking more land from Prince George. This time the City of Hopewell also joined the fray to try to pick off commercial areas of Prince George, a city that already had huge amounts of taxable industry within its borders. But this time, after five years of expensive and disruptive litigation, the results were different. Virginia courts, including the Supreme Court, unanimously ruled that the cities had not shown that annexation would benefit their cities or was necessary to provide effective governmental services to Prince George residents.

## **IMPACTS OF ANNEXATION**

But even after winning and with no change in Prince George's boundaries, the annexation litigation touched off decades of negative impact on regional relationships. These strained relationships slowed down regional progress and eroded business confidence in the region. The level of local hostility was so high that the normally very conservative voters in Prince George voted 4,375 to 270 to treat Prince George as a city for the purpose of issuing debt thereby eliminating the referendum requirement for debt issuance. This was a remarkable response from a very conservative electorate to the threat of annexation. And for years after the litigation, governmental services in the County had to be shaped in ways to make sure that Prince George would be in a position to defend itself against any future annexation attempts.

## **CITY GOVERNANCE**

Nor does just adding acreage to cities cure political conflict within city councils or cure governance problems within cities. As an example, much of the undeveloped acreage annexed from Prince George in 1971 was still undeveloped by the time of the 1985 annexation; a point dwelt upon by the court when rejecting Petersburg's annexation petition. And I might add this land is still mostly vacant today. And although Prince George has thrived during the moratorium period, Petersburg continues to struggle with internal governance issues. Also in 1985 the U. S. Department of Defense weighed in on a local issue by strongly opposing Petersburg's attempted annexation because of the presence of Fort Lee in Prince George. Now with the annexation moratorium in place for a number of years, I feel we – in the Tri-Cities area, have moved beyond the destructive, blunt instrument of annexation.

## **EQUALIZATION OF POWERS**

Significantly, during the annexation moratorium, the powers of cities and counties have been largely equalized by the General Assembly. There is virtually nothing now that a city can do that a county cannot do. Counties can now use varied approaches to providing services and can easily differentiate between developed and undeveloped areas when responding to different needs.

## **REGIONAL COOPERATION**

Since the last annexation, the General Assembly's emphasis has been on incentivizing regional cooperation and the joint provisions of services. For example, in today's positive moratorium environment, Prince George participates with many other jurisdictions to provide regional services in such areas as:

1. Community Corrections - probation/drug court;
2. Libraries (1 city & 2 counties);
3. Economic development (3 cities & 5 counties);
4. Regional jail (3 cities & 3 counties);
5. Vocational high school (3 counties);
6. Sewer, water and waste authorities (2 cities & 3 counties);
7. Police and fire mutual aid agreements (all adjoining localities – we are first responders in certain areas of Hopewell [Fire]);
8. Workforce Investment Board (4 cities & 5 counties).

Localities can only participate in these positive relationships, partnerships or joint ventures when they are not threatened by annexation.

## **MOBILITY OF CITIZENS**

Much else has changed in society since the 1971 annexation of Prince George as well. A notable change is the increased mobility of citizens who will not be constrained by artificial political boundaries caused by annexation that run roughshod over their personal decisions about where they want to live. If citizens are unhappy about being involuntarily switched to a different locality, they will vote with their feet by moving.

## **IN CONCLUSION**

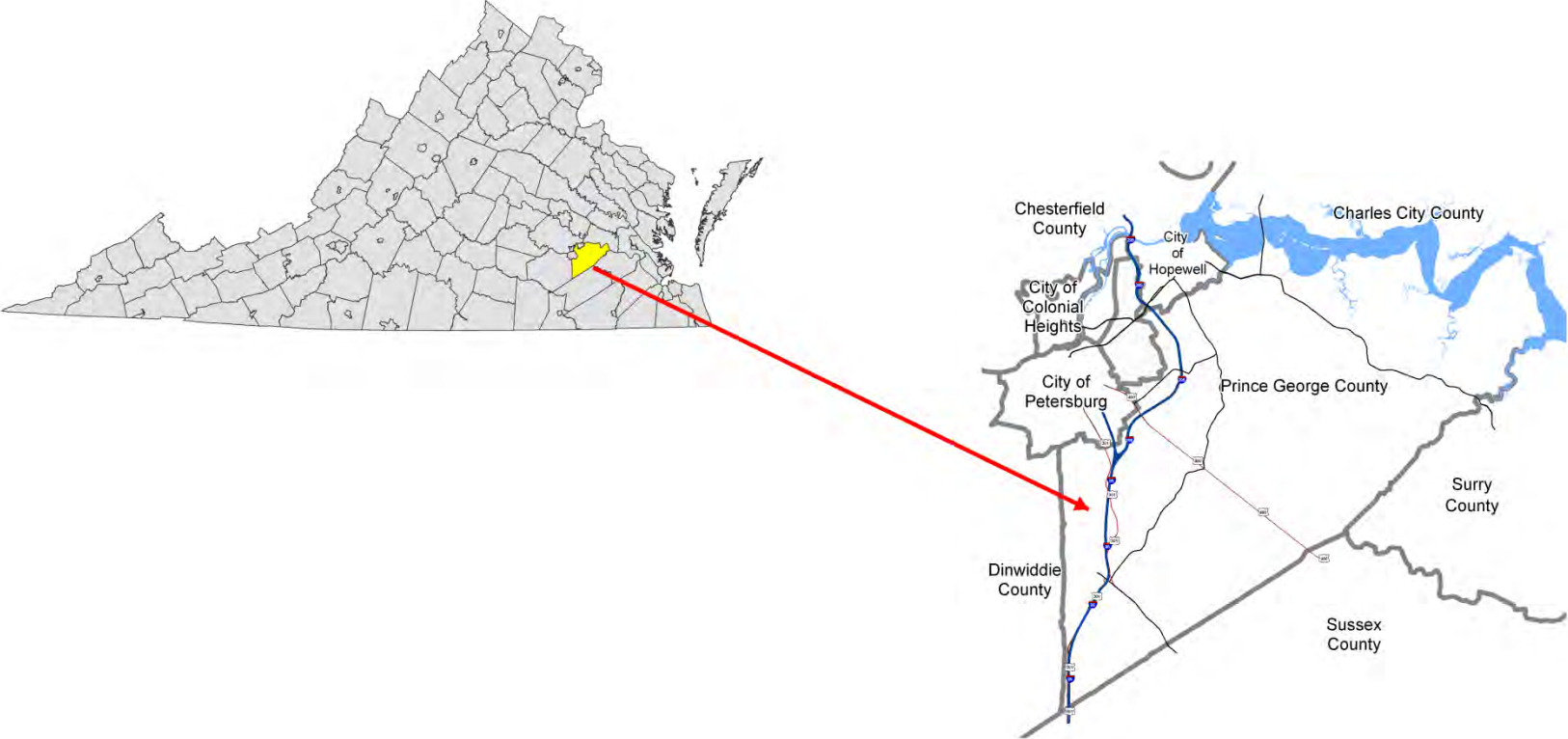
For all these reasons we are asking the Commission to recommend the continuation of the current moratorium on city-initiated annexations. All of the demonstrated negative impacts of annexation are not just conjecture or guesses. These bad outcomes have been confirmed for years by the reality of governmental relations in the Tri-Cities area. Annexation is an antiquated system that has no relevance today and opening up the possibilities of annexation makes no sense for Virginia in the future.

Thank you for your time.

Respectfully submitted,

William A. Robertson, Jr., Chairman  
Prince George County Board of Supervisors

# County of Prince George Location



## COMMONWEALTH OF VIRGINIA:

### Commission on Local Government, Annexation Moratorium Study

#### *Comments from the City of Martinsville*

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The annexation moratorium, and the special-legislation immunity certain counties have from annexation, has locked local government into the 1980s. Since that time, massive changes in population and demographics, industry and economy, and governmental growth have occurred in Virginia, but the inability of cities to grow through annexation ignores all of this, and forces cities to address 21<sup>st</sup> century issues within a footprint which is now almost four decades out of date.

The annexation moratorium was originally intended to be a short-term solution to the antagonism inherent in growth scenarios arising between independent and separate cities and counties. It was anticipated that a comprehensive, rather than stop-gap, solution to local government structure would be developed, but over 35 years later this has yet to occur.

The concept of cities completely independent from counties, with the respective tax bases being a zero-sum game, is rooted in the 18<sup>th</sup> and 19<sup>th</sup> centuries. Virginia is the only state in the Union which still follows this system of local government, and it puts the Commonwealth at a competitive disadvantage against all of the 49 other states. The annexation moratorium is merely one symptom of this antiquated system. Virginia should adopt comprehensive reform in its system of local government, to conform to the structure of the rest of America. It is imperative that the Commonwealth address the urgent need to bring local government in Virginia into the modern age. It is essential that reform actually occur through the passage of legislation, and that such reform occur quickly. Merely conducting a study, or forming a special commission to make recommendations which are then shelved, will do nothing to alleviate the fundamental challenges facing Virginia's outdated local government structure.

Under the current structure, independent cities are landlocked. With changes in the economy shifting manufacturing out of the country, or in some cases simply ceasing to exist as changes in manufacturing and technology occurs, many cities experience financial stress as costs to provide city services escalates while revenue to support those services shows little to no growth. Coupled with unfunded mandates, the state consistently underfunding its share of local obligations and responsibilities (599 funding for example), and the state reaching into local government coffers to address state budget shortfalls, cities are forced to continually raise taxes and fees, cut services, or examine reversion scenarios to survive, all of which serves to widen a clear division between how independent cities and counties function in the Commonwealth.

Efforts should be placed on much higher priority issues in our communities— education, economic development, and employment opportunities for example, than playing shell games with taxpayer’s money to stretch already meager resources year after year to simply survive through another budget season.

*Specifically:*

1. The Commonwealth should immediately adopt financial incentives, similar to those offered in the Bedford City/County reversion, to encourage consolidation of school systems in the bottom quartile of the LCI, or which are experiencing declining enrollment in excess of 5% per annum.
2. The Commonwealth should consider additional financial incentives to encourage consolidation of duplicative departments in contiguous localities—such as social services, parks and recreations, and public safety. Consolidation or elimination of constitutional offices should also be made an easier option for localities.
3. The Commonwealth should consider conversion of the system of local government to that of the county as the preeminent unit of local government, and abandoning the concept of completely independent cities. Such a system (North Carolina being an example) would dramatically reduce the adversarial, zero-sum nature of annexation between counties and cities, would create enhanced opportunities for economic development, and would enable greater economies of scale in the provision of public services.
4. The Commonwealth must fulfill the commitment it made to localities at the time the annexation moratorium was originally imposed by fully funding its commitment to local public safety in the HB 599 formula. The Commonwealth should increase HB 599 funding for cities to a higher rate to provide more support of Public Safety similar to Sherriff’s criminal operations in counties. If HB 599 is not fully honored or increased, then the annexation moratorium should be repealed.

## **Appendix C: Public Comments on Draft Report**

**RESOLUTION SUPPORTING CONCEPTS FROM THE  
COMMISSION ON LOCAL GOVERNMENT  
DRAFT REPORT ON ANNEXATION ALTERNATIVES**

**WHEREAS**, the structure of Virginia local government originated from a need to meet certain service needs of citizens at a more geographical proximate level; and

**WHEREAS**, counties were established as the general form of local government with a mandate to provide a standard level of service; and

**WHEREAS**, cities and towns originated to provide urban types of services such as police and water and sewer infrastructure, in addition to other mandated services; and

**WHEREAS**, cities in Virginia are independent, which means they do not share in some services or tax bases with counties, in the same manner as towns, this feature being unique to Virginia; and

**WHEREAS**, annexation has been historically used to allow cities and towns to extend the delivery of service and for future economic development, which allowed cities and towns to grow their tax base; and

**WHEREAS**, annexations have caused disputes and other disagreements which have resulted in costly and lengthy legal battles and created a general sprit of distrust and hostility between many of Virginia's cities and counties; and

**WHEREAS**, the General Assembly, during its 2016 regular session, extended the existing moratoria for city annexation, county immunity from city annexation, and the granting of new city charters until 2024 and directed the Commission on Local Government to study and provide a report to the General Assembly by 2018 on the following:

1. Evaluate the structure of cities and counties in the Commonwealth;
2. Evaluate the impact of annexation upon localities;
3. Consider alternatives to the current moratorium; and
4. Consult with and seek input from the Virginia Municipal League, Virginia Association of Counties and localities directly affected by the moratorium; and

**WHEREAS**, the Commission on Local Government prepared a draft report regarding annexation alternatives dated June 2018; and

**WHEREAS**, the Commission believes that granting cities the ability to annex in the future to be a very low probability and an ineffective solution.

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Supervisors of the County of Frederick, Virginia, supports making the annexation moratoria permanent; and



**BE IT FURTHER RESOLVED**, that this Board supports the concept of granting additional powers to counties through reversion and other interlocal agreements, which could include, but not be limited to, granting/relaxing taxing and debt power/limits to counties affected by reversion and granting/relaxing taxing and debt powers/limits to counties that participate in economic growth-sharing agreements; and

**BE IT FURTHER RESOLVED**, that this Board supports the concept of incentivizing additional regional cooperation and regional programs through restoration of previous funding levels to Planning District Commissions and evaluation of other state programs to identify opportunities for more regional focus; and

**BE IT FURTHER RESOLVED**, that this Board supports the concept of modifying consolidation statutes to remove obstacles to include removing or altering the required voter referendum for local consolidation.

**ADOPTED** this 25th day of July, 2018.

**VOTE:**

Charles S. DeHaven, Jr.	Aye	Judith McCann-Slaughter	Aye
Gary A. Lofton	Aye	Shannon G. Trout	Aye
Blaine P. Dunn	Aye	Robert W. Wells	Aye
J. Douglas McCarthy	Aye		

  
Kris O. Tierney, Clerk  
Frederick County Board of Supervisors

BOS Res. #002-18

14301 Chepstow Road  
Midlothian, VA 23113  
August 17, 2018

Mr. David Conmy  
Commission on Local Government  
Department of Housing and Community Development  
Main Street Centre  
600 East Main Street, Suite 300  
Richmond, Virginia 23219

Dear Mr. Conmy,

Thank you for the opportunity to comment on the draft of the Commission on Local Government's Report on Annexation Alternatives. It joins a long history of the examination of local government structures and responsibilities by the Commonwealth.

I was assistant director of the Commission from late-1980 until 2003 when it was an independent agency, and after the merger with the Department of Housing and Community Development, I was the program supervisor for the Commission until 2006. In those roles, I researched and assisted in the drafting of almost all of the Commission's reports on boundary change and government transition issues. Based on my experience, I offer the following comments on the report.

Modify reversion and consolidation statutes to remove obstacles.

The Commission's draft report states on page 22 "...reversion is a more unilateral process that does not require a voter referendum..." It should be noted, however, that in the 2007 General Assembly Session, the delegate from the 14<sup>th</sup> House District introduced a Section 1 bill to require a referendum in Henry County before the City of Martinsville could revert to town status.<sup>1</sup> While the legislation was not enacted, it was reported that the delegate intended to keep the bill "in his pocket" to forestall any future reversion attempt by that City. Since the principle intent of the reversion statutes is to encourage cities of less than 50,000 people to give up their independence and become towns, a Section 1 bill of that type would discourage any city from considering such an action without the complete support of the affected county.<sup>2</sup> While a negotiated settlement

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<sup>1</sup> See House Bill 1497, 2007 Session. Laws that are not permanent and of a general application (e.g., are limited in duration or have only local or regional application) may be excluded from the Code. Such bills are often enacted without a Code section number (referred to as "Section 1" bills). [[http://codecommission.dls.virginia.gov/faq\\_code\\_of\\_va.shtml](http://codecommission.dls.virginia.gov/faq_code_of_va.shtml)]. The Governor can amend or veto Section 1 bills.

<sup>2</sup> All real and tangible property in the former city will be subject to county taxation. In addition, a significant portion of the sales tax revenue derived from businesses within the former city will go to the county. Further, as a town, the municipality would be permitted to petition for annexation of territory within the county, following a two-year moratorium

between a city and county concerning governmental transition and other issues would be desirable (e.g., Clifton Forge and Alleghany County), there may be instances where a city may need to revert to town status without such an agreement. Therefore, it is recommended that Chapter 41 of Title 15.2, Code of Virginia be amended to prevent any legislation from requiring a referendum on the transition of a city to town status.

Make reversion and consolidation more cost-effective through incentives.

The Commonwealth currently offers generous financial incentives for total governmental consolidation, transition of a city to town status, and the consolidation of individual programs or functions. Those incentives provide that state fund going to the affected localities will not be reduced below the amount each entity would have received for the governmental function or program for specified periods as if no consolidation or reversion occurred.<sup>3</sup> Although those financial incentives are acknowledged as playing an important role in all three past reversion actions, the Commission is recommending that the “hold harmless” periods for all state financial aid be reduced from the current 15 or 20 years to 5 years “to save the state money.”<sup>4</sup> Past evidence suggest, however, that those incentives will not place a burden on the Commonwealth in the future.

Since the enactment of a budget amendment in 1982 to provide additional educational funding for school consolidation, there have been no other similar mergers of completely independent school systems.<sup>5</sup> Further, during the period of the greatest financial downturn since the Great Depression, no city transition actions were filed with the Commission. Finally, and as noted above, unless a statutory change is made, any future city transition actions are likely to be conditioned on referendum approval in the affected county.

Therefore, it is recommended that the Commission endorse a modification to the “hold harmless” provisions whereby the incentives are fully funded by the Commonwealth for a period of five years and continue at a declining percentage for an additional five years.

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after reversion. See Commission on Local Government, “Some Effects Of The Reversion Of An Independent City In Virginia To Town Status,” Dec. 2015.

<sup>3</sup> Section 15.2-1302, Code of Virginia. Those code sections are also referred to as “hold harmless” provisions.

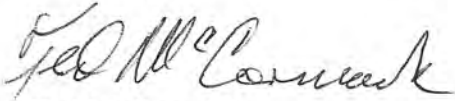
<sup>4</sup> Joint Legislative Audit and Review Commission, Local Government and School Consolidation, House Document 14 (2014), pp. 6-7.

<sup>5</sup> The 1982 budget amendment was specifically to assist financially the merger of the Clifton Forge and Alleghany County independent school systems. Both the former Cities of South Boston and Bedford were partially merged systems before their reversion to town status.

Mr. David Comny  
Page 3

Again, thank you for the opportunity to offer my comments on the Commission's report.

Sincerely,

A handwritten signature in cursive script that reads "Ted McCormack". The signature is written in black ink and is positioned above the printed name.

Ted McCormack



## OFFICE OF THE CITY MANAGER

Noel C. Taylor Municipal Building  
215 Church Avenue, SW, Suite 364  
Roanoke, Virginia 24011  
540.853.2333  
www.roanokeva.gov

August 28, 2018

Commission on Local Government c/o David Conmy  
Department of Housing and Community Development  
Main Street Centre  
600 East Main Street, Suite 300  
Richmond, Virginia 23219

Re: City of Roanoke Comments on the Draft Report on Annexation Alterations prepared by Commission on Local Government, dated June 2018

The Commission on Local Government (CLG) has prepared a draft report on Annexation Alternatives dated June 2018 (Report), and has invited comments from the public on the Report. The City of Roanoke, Virginia (City) accepts this invitation from CLG and provides its observations to the question of annexation alternatives.

The Report provides a historical background to the creation of local governments and, more specifically, a detailed discussion of the challenges presented by the annexation debate within the Commonwealth of Virginia. From this background, the Report establishes a fundamental theme that should form the basis for collaboration and creativity in addressing the needs of all localities. The fundamental principal is economic development in the 21<sup>st</sup> Century. The challenges facing localities in succeeding and sustaining in an increasing complex and dependent regional and global economy is unmistakable. While it may be unavoidable that annexation will no longer be deemed desirable, it is imperative that all alternatives that continue to support the efforts of municipalities by explored – this issue has been satisfactorily addressed in many places throughout the Nation to the benefit of the many parties involved.

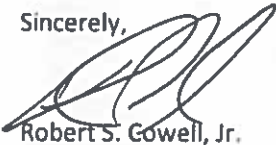
The City urges CLG to focus on the tools needed by localities to develop their economies for the benefit of their citizens and for the overall fiscal strength of the Commonwealth. These tools include:

1. Provide increased levels of funding and real economic incentives from the General Assembly that encourage regional collaboration on infrastructure, public transportation and business development. These include sustainable funding commitments that support regional efforts from the development of the project through its implementation.
2. Remove the limitations placed on counties with respect to local taxation and bond funding. Counties face significant limitations that are not imposed on independent cities. Removal of these distinctions and limitations should enhance regional collaboration.

3. Encourage a comprehensive review of mandates imposed on localities by the General Assembly and remove as many of them as possible. This review will determine what steps State government must take to properly fund or remove these mandates.
4. Support comprehensive reforms of Virginia's antiquated tax structure. These reforms must acknowledge that the demands of a global economy requires 21<sup>st</sup> Century tools to create sustainable revenue sources for the state and localities. Communications sales taxes for streaming services and other telecommunications should be reviewed and adopted.

The City appreciates this opportunity to share its prospective on the Report. The Report can serve as a catalyst for significant improvement of the local economic base in a cooperative investment. This opportunity should be embraced by all constituencies.

Sincerely,



Robert S. Gowell, Jr.  
City Manager



Conmy, John &lt;david.conmy@dhcd.virginia.gov&gt;

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## VACo Comments on Draft Report on Annexation Alternatives

1 message

Joe Lerch &lt;jlerch@vaco.org&gt;

Wed, Aug 29, 2018 at 3:12 PM

To: "Conmy, David (DHCD)" &lt;David.Conmy@dhcd.virginia.gov&gt;

Good Afternoon David,

The Virginia Association of Counties (VACo) offers the following comments on the June 2018 DRAFT Report on Annexation Alternatives:

\* VACo supports the recommendation for keeping the current moratoria in place.

\* Regarding the recommendation to provide counties the additional taxing and debt powers as cities as an incentive for the conversion of a city to town status, VACo supports the granting of these additional powers to all counties, and not just specifically to counties that work with cities on conversion. As stated in the Executive Summary (p. 6), "... the Commission believes that other structural and fiscal matters could be considered and implemented that would achieve more success and better promote and sustain the viability of all local governments in the Commonwealth..." Given such, VACo believes that providing equal taxing for counties to that enjoyed by cities and towns would provide greater impact in improving the fiscal health of all localities.

\* Regarding recommendations to remove or alter required voter referendum for local consolidation (p. 21-22), VACo recommends that two or more jurisdictions entering into consolidation proceedings be allowed to choose the current process, or from one of the three alternatives presented (voter referendum before reaching consolidation agreement, no voter referendum, and collective rather than separate referendums in each locality).

Lastly, VACo extends our gratitude to the Commission on Local Government and DHCD staff in the drafting of a thorough and well researched examination of the issues regarding annexation and state and local government cooperation in meeting the demands for services for all Virginians.

Call me if you have any questions.

Joe Lerch  
Director of Local Government Policy  
Virginia Association of Counties  
Phone: (804) 343-2506  
[jlerch@vaco.org](mailto:jlerch@vaco.org)<mailto:jlerch@vaco.org>

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 **winmail.dat**  
21K

## COMMONWEALTH OF VIRGINIA:

### Commission on Local Government, Annexation Moratorium Study

#### Comments from the Town of Leesburg, Virginia

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On behalf of the Town Council per Resolution 2018-103, the Town of Leesburg, Virginia (“Leesburg”) urges the Commission on Local Government to recommend to the Virginia General Assembly to lift the current moratorium, or to create an exception for large towns like Leesburg in order to enable Leesburg the future opportunity to become a city. Lifting the moratorium, or creating an exception, will allow the Leesburg Town Council to seriously consider whether becoming a city is in the best interests of our residents.

Leesburg’s current population is 54,215, making it the largest town in Virginia, larger than 27 of Virginia’s 38 cities.<sup>1</sup> Leesburg has been the judicial and business hub of Loudoun County (“Loudoun”) since the mid-1700s, and has a very strong economy. For the last three years, Leesburg has been the only town in the Commonwealth with an “AAA” bond rating from all three major bond rating agencies, and it is the Council’s intention to retain this prestigious financial rating. As such, Leesburg has very strong budgetary flexibility with substantial audited reserves of its general fund expenditures. Leesburg has a stable and diverse revenue stream with strong liquidity due to robust cash levels that cover both debt service and expenditures. Leesburg has stable management and financial policies in place that consistently allow the Town to balance its budget. Due to its geographic location within the diverse Washington D.C.-Northern Virginia area, Leesburg’s economy will likely continue to grow while enjoying low unemployment, and positive residential property values along with an increasing population that includes 2,200 residential units in the immediate development pipeline yet to be built.

According to the 2012-2016 American Community Survey 5-Year Estimates, the median household income for Leesburg is \$102,132, nearly double the national figure of \$55,322. Fifty-one percent of Leesburg residents age 25 or older have a bachelor’s degree or higher, and 19% hold a graduate or professional degree. The median age is 34.6 years old. Educationally, Leesburg and Loudoun are served by the Loudoun County Public Schools (LCPS), which currently provides instruction to over 83,000 students from kindergarten through 12<sup>th</sup> grade. Approximately 11,400 of those students are Leesburg residents.<sup>2</sup> As a result of these unique demographics, Leesburg residents demand a high standard for services that Leesburg consistently provides. Examples include its police department, which employs 83 sworn officers. Leesburg also owns and maintains its streets, provides trash and recycling services, operates a nationally award-winning parks and recreation department, owns and operates a research library, owns and operates the second busiest general aviation airport in the Commonwealth, and operates its own water and waste water systems.

Given Leesburg’s population, financial position, geographical location, and track record of providing exemplary services, it is our position that Leesburg should be afforded the opportunity to explore city status. This will assure Leesburg the ability to seriously evaluate if it is truly

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<sup>1</sup> According to the most recent population estimate from the U.S. Census Bureau in July 2017.

<sup>2</sup> Weldon Cooper Center 2017 school age population estimates.



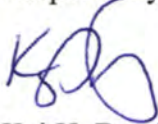
advantageous for our residents to be served as a city rather than within the existing government structure between the Town and the County. As a city, the council would be able to focus on the plethora of needs of the residents within its corporate limits rather than working with a larger government board that may have conflicting needs within a county that is more than 500 square miles with a population of over 360,000 residents.

Leesburg residents currently depend on Loudoun for much of their governmental services including fire protection, family and social services, health services, building inspections, and many more. Leesburg should be able to assess what is best for its residents, and whether becoming a city would allow services to be provided at lower or comparable costs as compared to the combined structure. Leesburg residents pay taxes to Loudoun that are applied to the funding of all services provided by the County. However, Loudoun does not provide certain services, such as public safety and storm water management within Leesburg because Leesburg already provides those services. As a result, Leesburg's residents pay for services from Loudoun that they do not receive.

For many years, the Leesburg Town Council has included the item of "city status" in its Legislative Agenda in order to have the ability to explore becoming a city. Most recently and during the 2016 Virginia General Assembly Session, former Delegate J. Randall Minchew introduced HB 192 to exempt towns with a population of 40,000 or greater (such as Leesburg) from the moratorium. Although the bill was tabled by the Counties, Cities and Towns Committee, Leesburg continues to contemplate city status.

In closing, in order for Leesburg to conduct a serious examination or study of the costs and benefits of becoming a city, a long-term and in-depth financial analysis must be performed. So long as a moratorium is in place, any financial analysis performed by Leesburg will be of little or no practical value. As such, Leesburg submits that the moratorium for new city charters should not be permanent, and requests that the Commission on Local Government consider Leesburg's unique situation by recommending either a lifting of the moratorium on new city charters, or an exception for large towns like Leesburg to petition for city status.

~~Respectfully submitted,~~



Kaj H. Dentler, Town Manager  
On behalf of the Leesburg Town Council

Attachment: Resolution 2018-103

Cc: Leesburg Town Council

The Town of  
**Leesburg,  
Virginia**

PRESENTED: August 14, 2018

RESOLUTION NO. 2018-103

ADOPTED: August 14, 2018

A RESOLUTION: TO PROVIDE WRITTEN COMMENTS TO THE COMMISSION ON LOCAL GOVERNMENT'S DRAFT REPORT PROPOSING A PERMANENT ANNEXATION MORATORIA

WHEREAS, in 2016, the General Assembly enacted amendments to Code of Virginia §15.2-3201 which extended the moratoria on annexations in the Commonwealth to at least 2024; and

WHEREAS, an additional amendment directed the Commission on Local Government (COLG) to conduct a study on the impact of annexation of localities; and

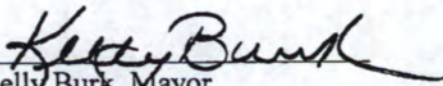
WHEREAS, "directly affected localities" have until September 3, 2018, to provide written comments to the COLG regarding its draft report; and

WHEREAS, the Town of Leesburg is a directly affected locality in that the Leesburg Town Council has discussed the possibility of securing city status for many years; and

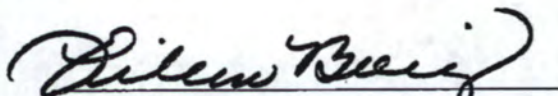
WHEREAS, the Town Council would like to continue to discuss the possibility of city status and therefore opposes a moratorium on towns in the Commonwealth securing city status.

THEREFORE, RESOLVED, by the Council of the Town of Leesburg in Virginia hereby directs the Town Manager to provide written comments to the COLG outlining the Town Council's opposition to the moratorium on securing city status.

PASSED this 14<sup>th</sup> day of August, 2018.

  
Kelly Burk, Mayor  
Town of Leesburg

ATTEST:

  
Clerk of Council

August 30, 2018

Commission on Local Government  
Department of Housing and Community Development  
Main Street Centre  
600 East Main Street, Suite 300  
Richmond, Virginia 23219

Chairman Reynolds and Members of the Commission:

The Virginia Association of Planning District Commissions (VAPDC) appreciates the opportunity to have participated in the work of the Annexations Alternatives Study over the past two years, and accordingly, offers these comments on several of the draft report's recommendations:

We appreciate the report's recognition of the differences in growth patterns across regions of the Commonwealth, and the resulting challenges that brings to various localities. Accordingly, we agree with the notion of on-going review/discussion of the relationship between the state and localities concerning state-funded programs and the appropriate delivery of such services (p. 24).

We support the recommendation that the General Assembly consider initiatives that incentivize and offer regulatory flexibility to make it easier for localities to cooperate at a regional level, as well as the suggestion that state planning grants be available for this and similar collaborative regional efforts (p. 25).

Finally, we support the report's recommendation to incentivize regional cooperation and regional programs, specifically through additional state funding for local planning district commissions and other state-programs that facilitate a more regional focus (p. 28). We are glad to have seen the regional focus employed by the *GO Virginia* initiative, in which many local planning districts remain intricately involved as regional leaders or participants.

Thank you again for the opportunity to provide input into this important study, and for the work you do for the Commonwealth through the Commission on Local Government.

Sincerely,

A handwritten signature in black ink that reads "Robert K. Coiner". The signature is written in a cursive, slightly slanted style.

Robert K. Coiner, President

**COMMONWEALTH OF VIRGINIA:**

**Commission on Local Government, Annexation Moratorium Study**

*Additional Comments from the City of Martinsville, for the 2018 Draft Study*

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The City of Martinsville applauds the Commission on Local Government’s efforts in regard to the pressing issue of local government reform in the Commonwealth, and endorses all of the recommendations contained in the Draft Study. Particularly welcome are the “Structural Considerations” contained on page 21 of the Draft, allowing reverting cities to retain the title of City, and eliminating the referendum requirement in the Consolidation process.

Martinsville suggests that additional consideration be given to how payroll saving may be achieved through departmental consolidation among localities—we believe the preferred course is to achieve staff reductions through natural attrition, thereby reducing or eliminating internal, institutional resistance to such efforts. Therefore, additional state funding should be made available to ensure a smooth transition.

## **City of Staunton Comments for the Commission on Local Government**

**Carolyn W. Dull, Mayor**

**September 4, 2018**

Madam Chair, Members of the Commission:

Good Afternoon. I'm Carolyn Dull, Mayor of the City of Staunton. I want to thank the Commission on Local Government for holding this meeting in Staunton. As you may know, the Council-Manager form of government started here in 1908, when the Staunton City Council hired Charles E. Ashburner of Richmond to be the first city manager, ever, in the history of the universe – at least as far as we know. Since its initial settlement in 1732, its establishment as a frontier town by the Colonial-era General Assembly in 1761, its formal incorporation as a town in 1801, to its incorporation as a city in 1871, Staunton has evolved with the times and today boasts a proud history. You may also know that the City of Staunton and Augusta County went through one of the last, if not the last, annexation before the statewide moratoria on city annexations in 1986.

Today, newcomers to our community can hardly appreciate that just 35 years ago the governing bodies of Staunton and Augusta were locked in a tough battle, where a lot of legal fees and political capital was spent on annexation. Staunton desperately needed room to grow and was clearly better able to serve the area just outside its corporate limits where municipal services were nonexistent.

In the intervening years, Staunton and Augusta, as well as the City of Waynesboro, have found common cause and have worked well together over and over and over again to deliver a wide variety of over 50 successful cooperative projects and programs. Today, without any direction from Richmond, we are a

model for regional cooperation. All by ourselves, we have determined that we really like the idea of efficiency and cost savings for our taxpayers. We do joint projects and programs together as often as possible, and frequently stand side by side at the resultant ground breakings and the ribbon cuttings. Its good policy, its good politics, and its good government.

So the biggest challenges we face today are not from our neighboring partners. Like siblings, most of the time we get along just fine. But we are very concerned about our relationship with the state, which is too often characterized by unfunded mandates, broken promises, and the seizure of local money.

### **Unfunded Mandates**

Every few years the Virginia General Assembly studies unfunded and underfunded mandates and always comes up with the same conclusion: they are a burden and they should be curtailed or properly funded. A few state politicians take notice, a few unfunded mandates are eliminated, then a recession hits and more get added or the local funding responsibility increases, and nothing really changes. In 1993, the General Assembly directed that this Commission catalogue all state and federal mandates, a task that continues. In 2015, this Commission reported eleven new mandates, three newly identified mandates, and five expanded mandates.

Like most Virginia cities, public safety and K-12 education are Staunton's biggest expenditures. K-12 is built on a series of standards promulgated by the General Assembly and Board of Education for both learning and accreditation. The state considers these standards to be mandates, but it has consistently underfunded them. But state funding formulas are designed as much to limit the state's funding obligation as to accomplish the standards. In carrying out its state constitutional responsibilities, the Commonwealth fails to put its money where its mandates

are. The fact is that for Staunton and other cities, state funding for K-12 in FY17 was actually less in terms of purchasing power than the state appropriation made eight years earlier.

### **Broken Promises**

From Virginia's failure to distribute lottery proceeds as a supplement to state education funding—instead supplanting state dollars for local education—to the failure to fully fund 599 law enforcement funding as promised with the state's annexation moratoria, the state has a history of over-promising and under-delivering on its obligations to its cities. As the most financially fragile among local governments in the Commonwealth, cities need more resources to remain fiscally sustainable. But we are cynical about new programs that will likely fall short of their promise, and we suggest the Commonwealth should first revisit its prior promises of support and revenue distribution.

### **Seizure of Local Money**

It was shocking a few years ago when the state required local governments to write it a check every year for what we all called, "Aid to the Commonwealth." It was like mom and dad couldn't make the hard choices necessary to balance their checkbooks and needed their kids to refund part of their paltry allowances. But we did it.

The local communications tax on land lines and cell phones was just too tempting a source of revenue, so it was taken over by the state with a portion of the revenues swept to the state general fund to pay for state programs before the funds are returned – another example of local money seized by the Commonwealth. The erosion of local government tax revenues for targeted local tax relief needs to stop. If the state wants to give tax breaks to veterans for their undeniably dedicated service

and tremendous sacrifices, the state should give them a state tax break, not a local tax break.

### **A Dysfunctional Relationship**

So what do these criticisms have to do with the Commission's Annexation Study? Everything. The whole relationship between the state and its localities is out of whack. Fragile cities are now being encouraged to cease to exist as if reversion is a miracle cure-all? Consolidation with our neighbors is touted as a new tonic, as if local governments have never heard of such a thing? Why is the solution for underfunded local governments all about reversion and consolidation? Why should we give up our identities and the ability to educate our children, run our criminal justice systems, and take care of our underserved and needy citizens through new schemes borne of antipathy and the lack of political will and good faith? Wasn't it Thomas Jefferson who said that the best government is the one closest to the people? I suggest that Mr. Jefferson was thinking local governments and not regional entities and that this current dysfunctional relationship between localities and the Commonwealth will not be repaired with makeshift tourniquets and more temporary band aids.

That's my pessimistic but honest assessment of where we are. As for the study, removing obstacles to reversion and consolidation would certainly benefit those local governments that wish to revert or consolidate, sure. Incentivizing reversion and consolidation is better than nothing, but strikes us as only a marginally cheaper way out than keeping the promises already noted. Staunton is okay with giving counties equal taxing authority to cities, as long as we don't end up with new caps on our own authority. More planning grants aimed at operational efficiencies would certainly be helpful, but no more mandates, please. A moratorium and review of the ever-expanding benefits under the Line of Duty Act is badly needed and long



overdue. A more accurate way to measure fiscal stress is needed, as the current tools are not a good indicator of true local stress. Our very conservative assessment for all tax-exempt state owned property in Staunton is over \$171 million. If taxable under state law, the city would see another \$1.6 million a year in revenue. We have always been thankful for our state institutions, but everything comes at a cost. The opportunity cost for non-taxable state property affects our tax base and changes our score for fiscal stress.

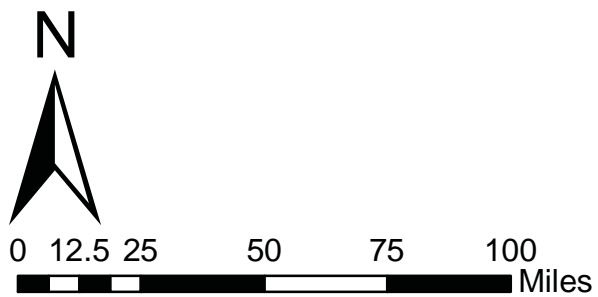
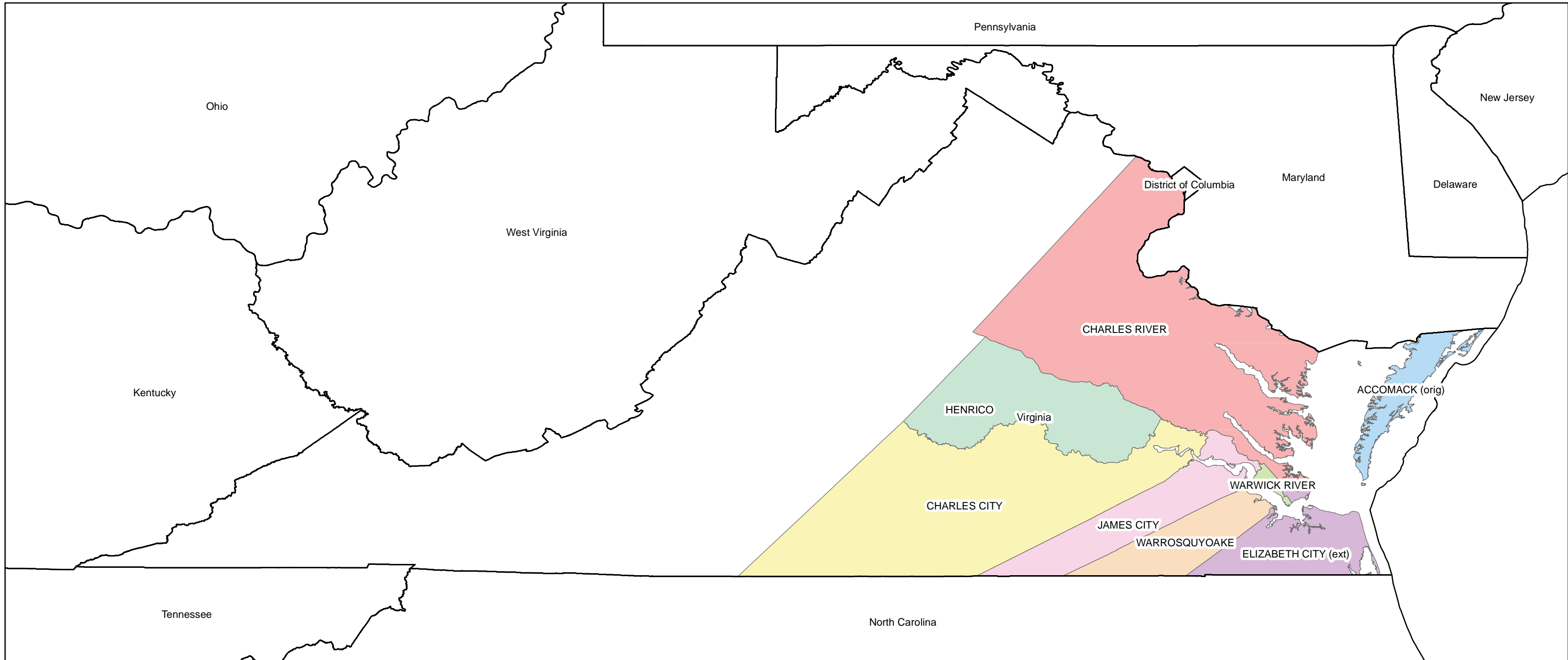
Incentivizing regional cooperation and regional programs is a fine idea, but we would expect to be given credit retroactively for the programs we have already regionalized, lest we be penalized for doing the right thing early on and those localities that haven't now be rewarded.

In conclusion, Staunton would like to see the state stop contributing to local stress by continued underfunding of K-12 education and shared state-local services. Cities and counties need the state to stop shifting costs to local governments. Restricting local tax revenue sources only serves to make things worse. We'd like to see the relationship repaired and stand ready to do our part, which begins with looking at some hard truths and having the will to act.

Thank you.

## **Appendix D: Virginia Local Government Boundary Maps Time Series**

# Commonwealth of Virginia: 1634: Original Eight Counties

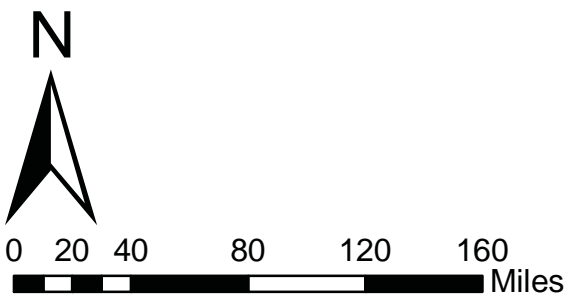
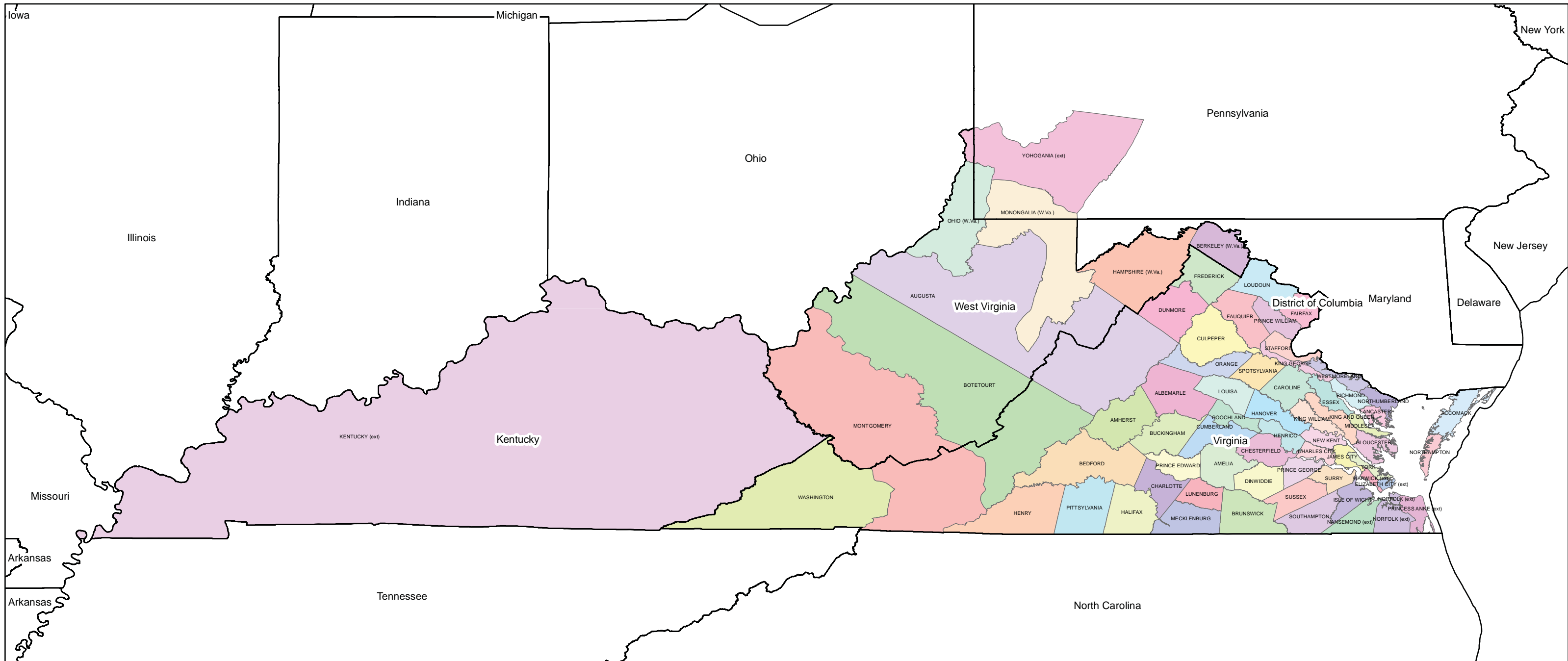


Source: U.S. Census Bureau; VA Department of Housing and Community Development; DenBoer, Gordon, and Peggy Tuck Sinko. Virginia Historical Counties. Data Set. Laura Rico-Beck, digital comp. Atlas of Historical County Boundaries, ed. by John H. Long. Chicago: The Newberry Library, 2010. Available online from <http://www.newberry.org/ahcbp>

# Commonwealth of Virginia:

## 1776: 67 Counties

### Includes territory in modern-day Kentucky, Pennsylvania, and West Virginia

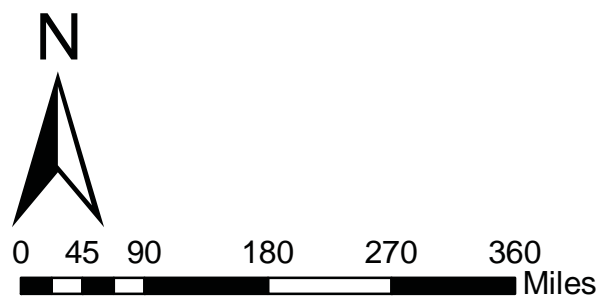
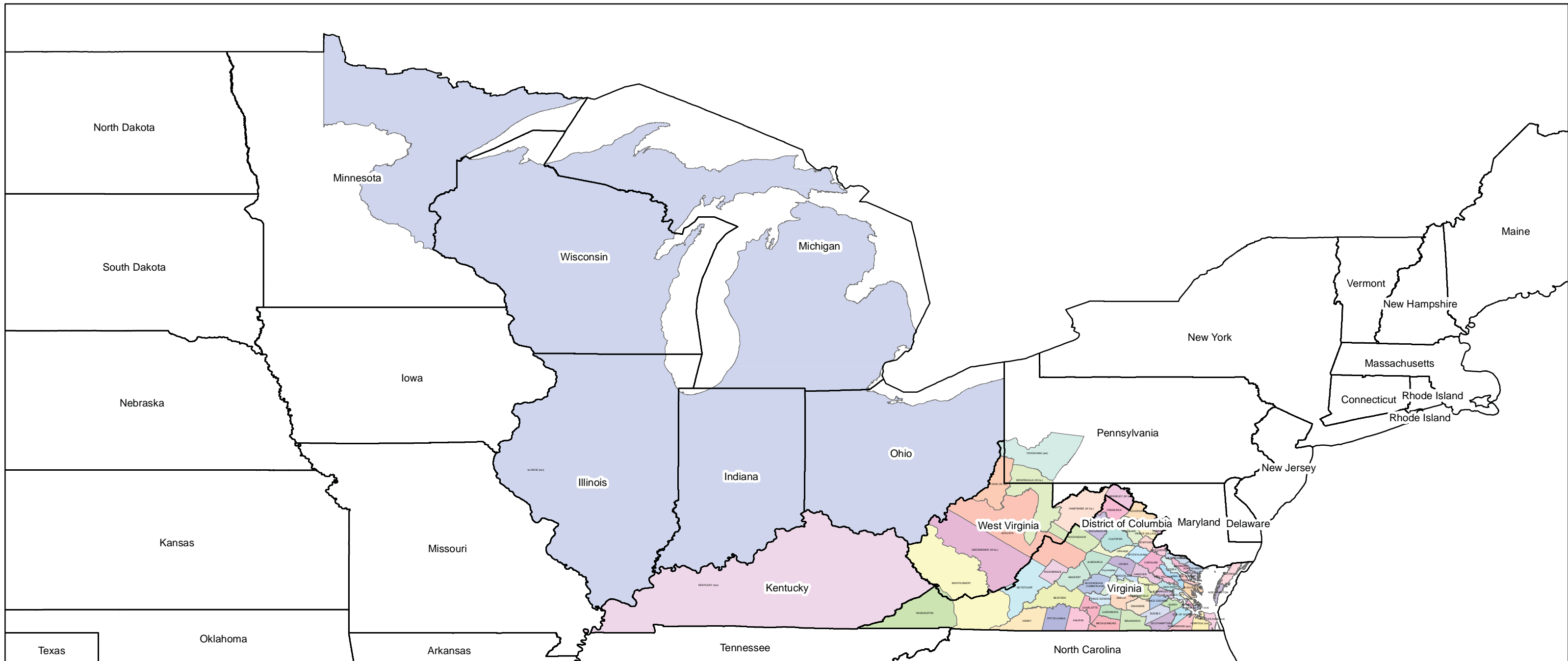


Source: U.S. Census Bureau; VA Department of Housing and Community Development; DenBoer, Gordon, and Peggy Tuck Sinko. Virginia Historical Counties. Data Set. Laura Rico-Beck, digital comp. Atlas of Historical County Boundaries, ed. by John H. Long. Chicago: The Newberry Library, 2010. Available online from <http://www.newberry.org/ahcbp>

# Commonwealth of Virginia:

## 1778: 73 Counties

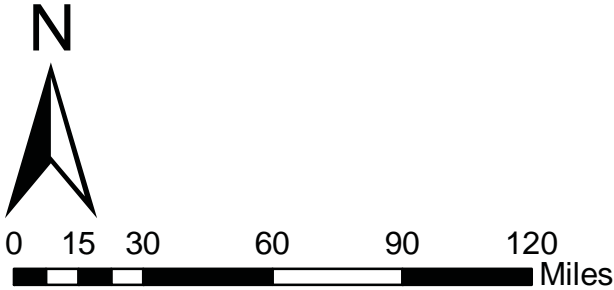
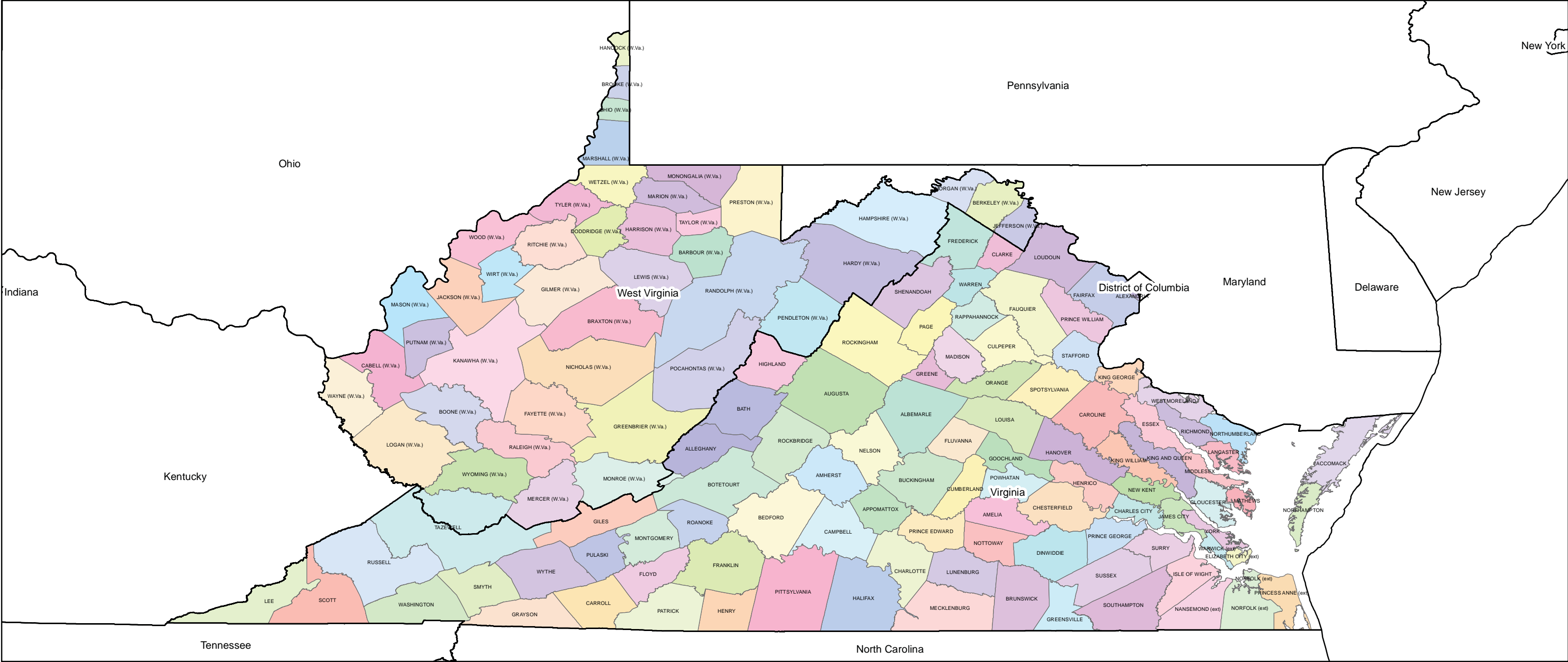
### Includes territory in 8 modern-day states (IL, IN, KY, MI, MN, OH, PA, WV)



Source: U.S. Census Bureau; VA Department of Housing and Community Development; DenBoer, Gordon, and Peggy Tuck Sinko. Virginia Historical Counties. Data Set. Laura Rico-Beck, digital comp. Atlas of Historical County Boundaries, ed. by John H. Long. Chicago: The Newberry Library, 2010. Available online from <http://www.newberry.org/ahcbp>

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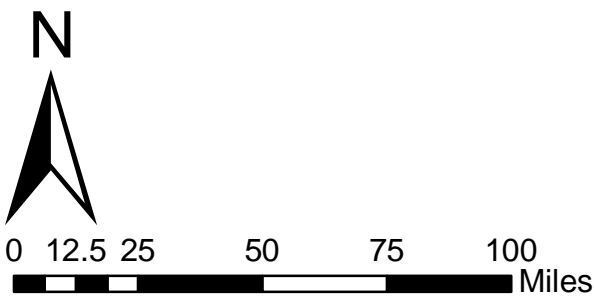
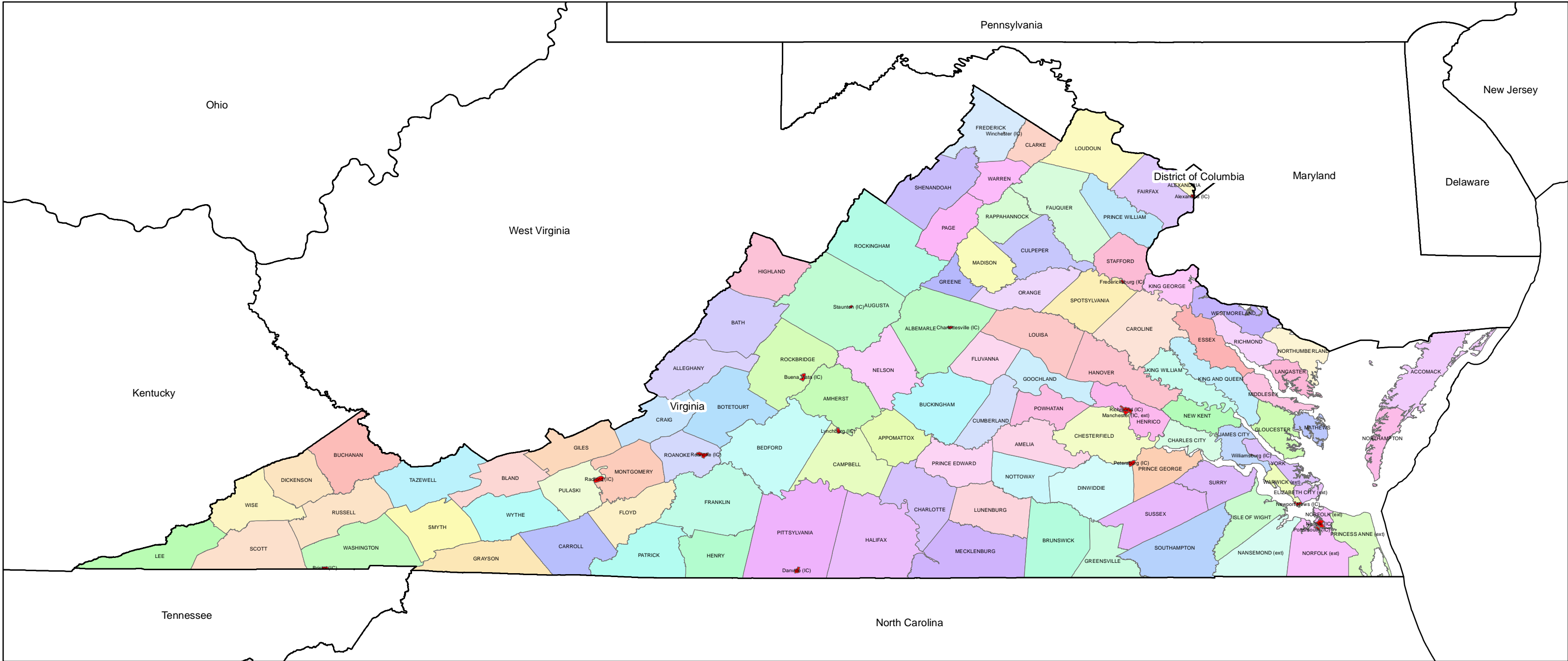
# Commonwealth of Virginia: 1850: 137 Counties West Virginia not yet a State



Source: U.S. Census Bureau; VA Department of Housing and Community Development; DenBoer, Gordon, and Peggy Tuck Sinko. Virginia Historical Counties. Data Set. Laura Rico-Beck, digital comp. Atlas of Historical County Boundaries, ed. by John H. Long. Chicago: The Newberry Library, 2010. Available online from <http://www.newberry.org/ahcbp>



# Commonwealth of Virginia: 1902: 118 Localities (100 Counties and 18 Independent Cities) VA 1902 Constitution informally recognizes cities as independent

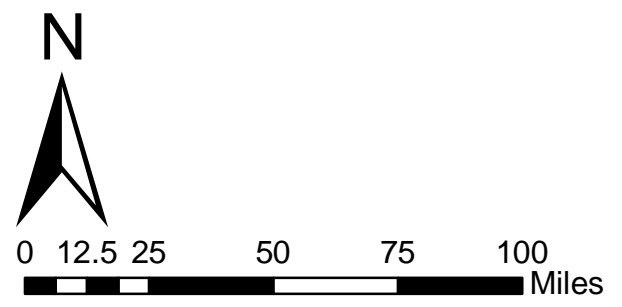
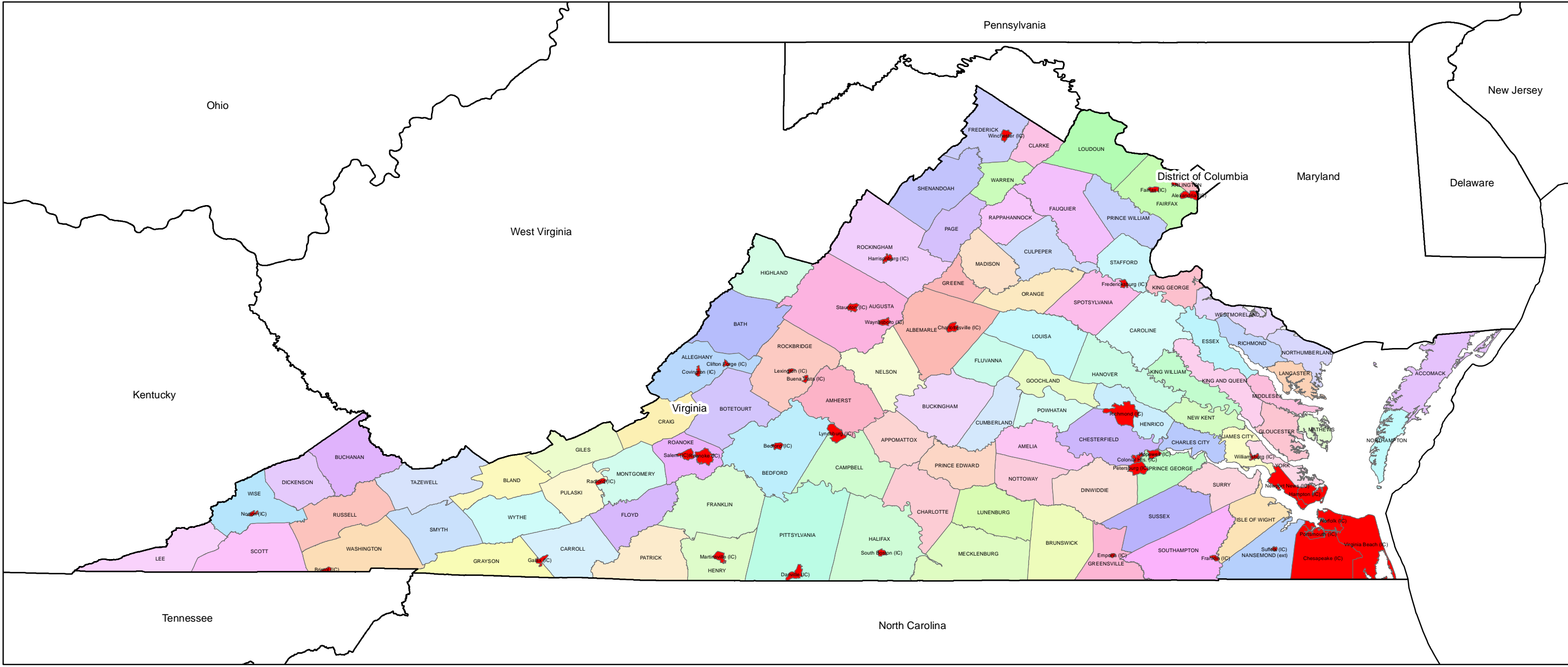


Source: U.S. Census Bureau; VA Department of Housing and Community Development; DenBoer, Gordon, and Peggy Tuck Sinko. Virginia Historical Counties. Data Set. Laura Rico-Beck, digital comp. Atlas of Historical County Boundaries, ed. by John H. Long. Chicago: The Newberry Library, 2010. Available online from <http://www.newberry.org/ahcbp>



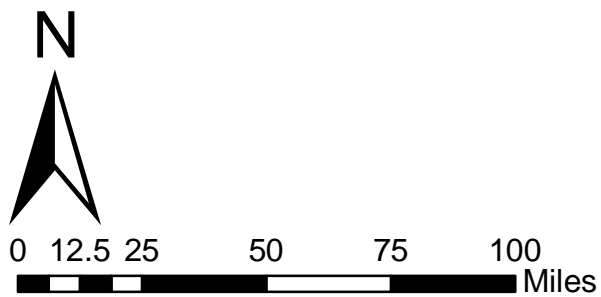
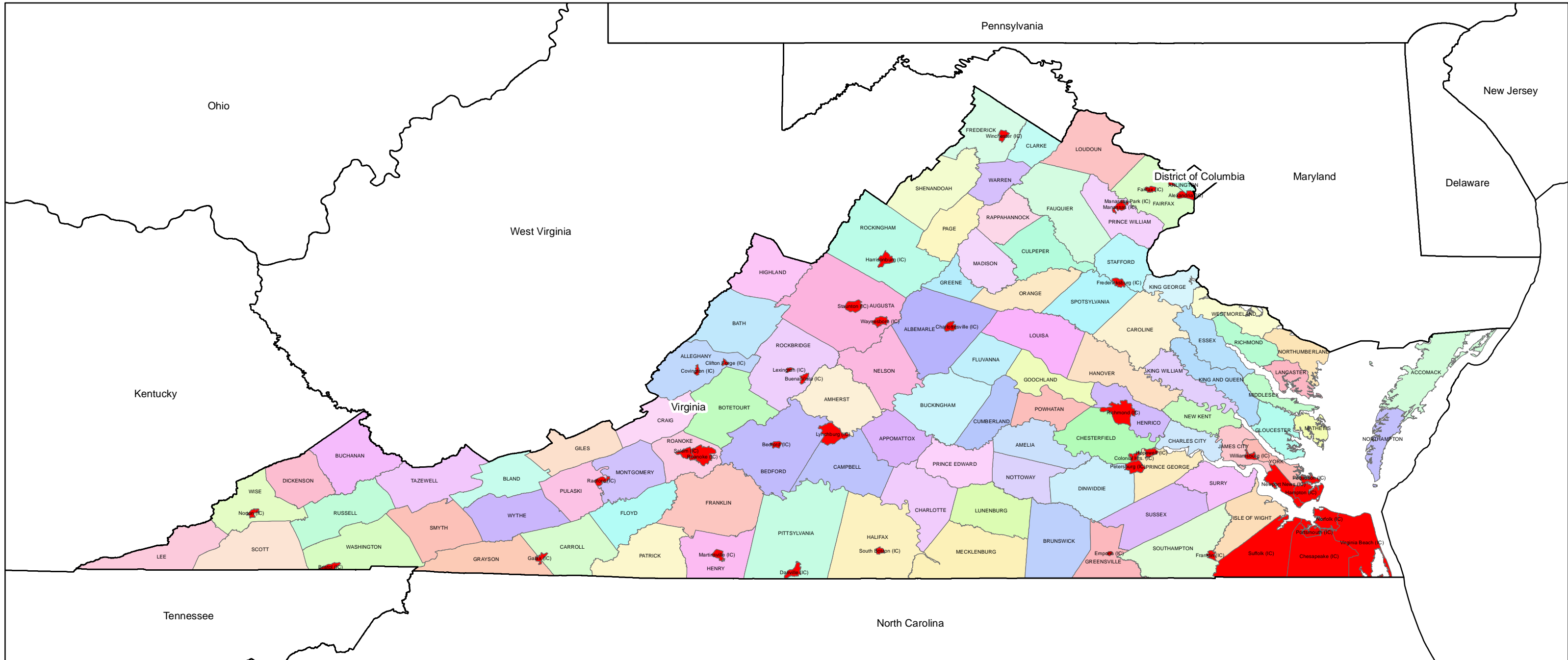
# Commonwealth of Virginia: 1971: 134 Localities (96 Counties and 38 Independent Cities)

## VA 1971 Constitution (current) formally recognizes cities as being independent



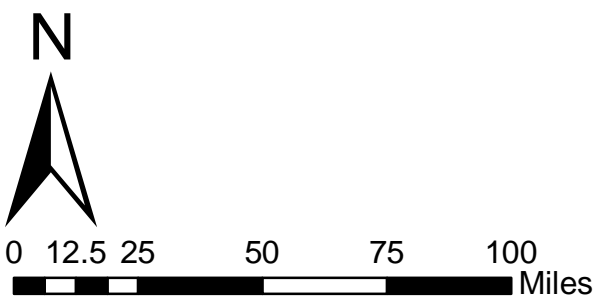
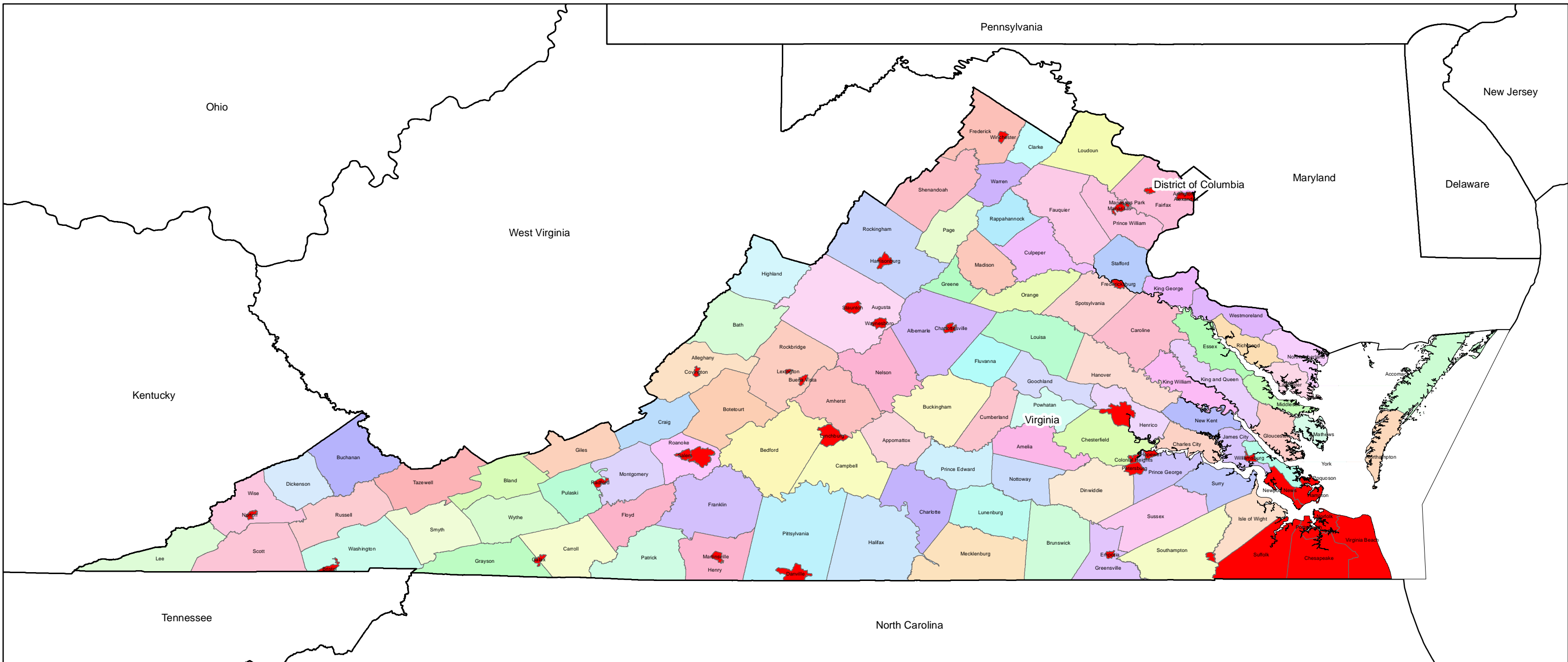
Source: U.S. Census Bureau; VA Department of Housing and Community Development; DenBoer, Gordon, and Peggy Tuck Sinko. Virginia Historical Counties. Data Set. Laura Rico-Beck, digital comp. Atlas of Historical County Boundaries, ed. by John H. Long. Chicago: The Newberry Library, 2010. Available online from <http://www.newberry.org/ahcbp>

# Commonwealth of Virginia: 1987: 136 Localities (95 Counties and 41 Independent Cities) Annexation moratoria are in effect



Source: U.S. Census Bureau; VA Department of Housing and Community Development; DenBoer, Gordon, and Peggy Tuck Sinko. Virginia Historical Counties. Data Set. Laura Rico-Beck, digital comp. Atlas of Historical County Boundaries, ed. by John H. Long. Chicago: The Newberry Library, 2010. Available online from <http://www.newberry.org/ahcbp>

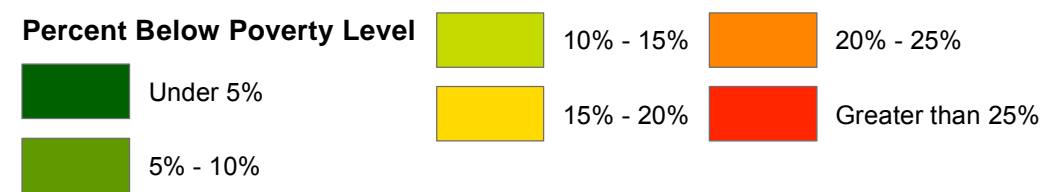
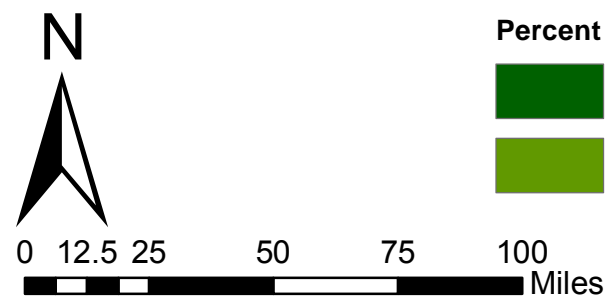
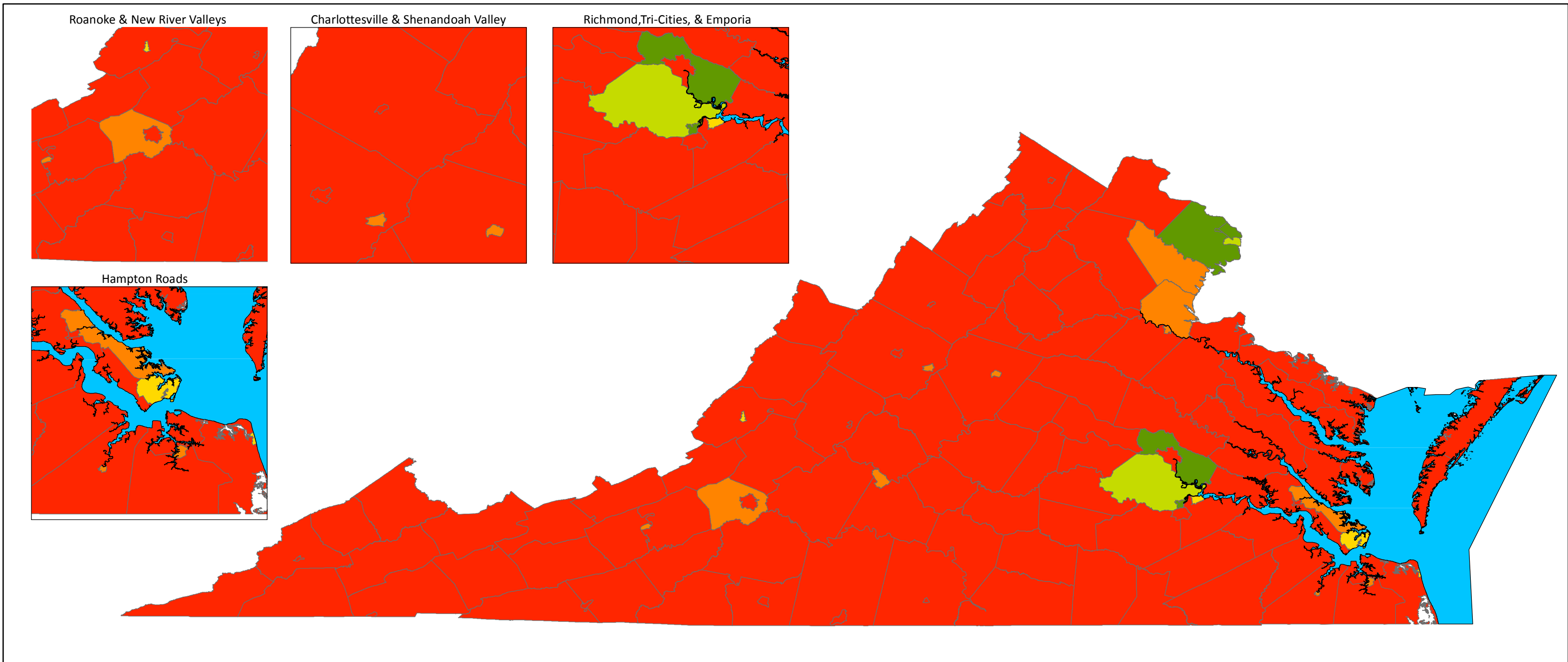
# Commonwealth of Virginia: 2018: 133 Localities (95 Counties and 38 Independent Cities) Current VA local government structure, moratoria still in effect



Source: U.S. Census Bureau; VA Department of Housing and Community Development; DenBoer, Gordon, and Peggy Tuck Sinko. Virginia Historical Counties. Data Set. Laura Rico-Beck, digital comp. Atlas of Historical County Boundaries, ed. by John H. Long. Chicago: The Newberry Library, 2010. Available online from <http://www.newberry.org/ahcbp>

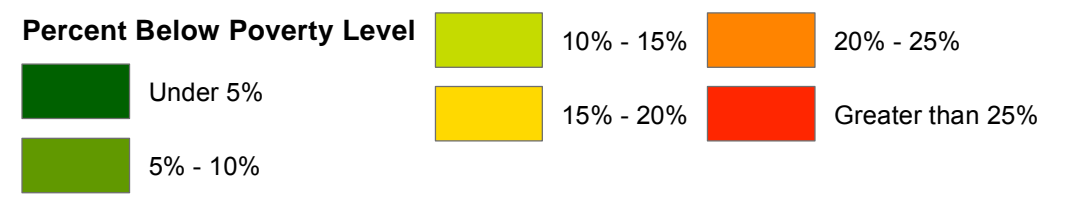
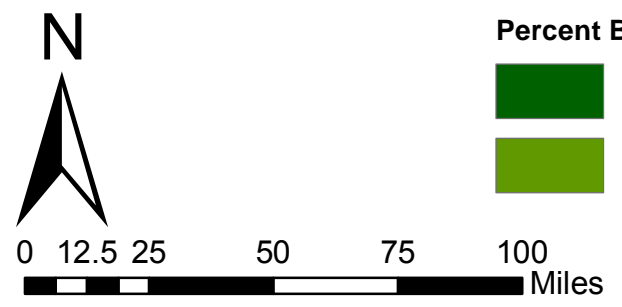
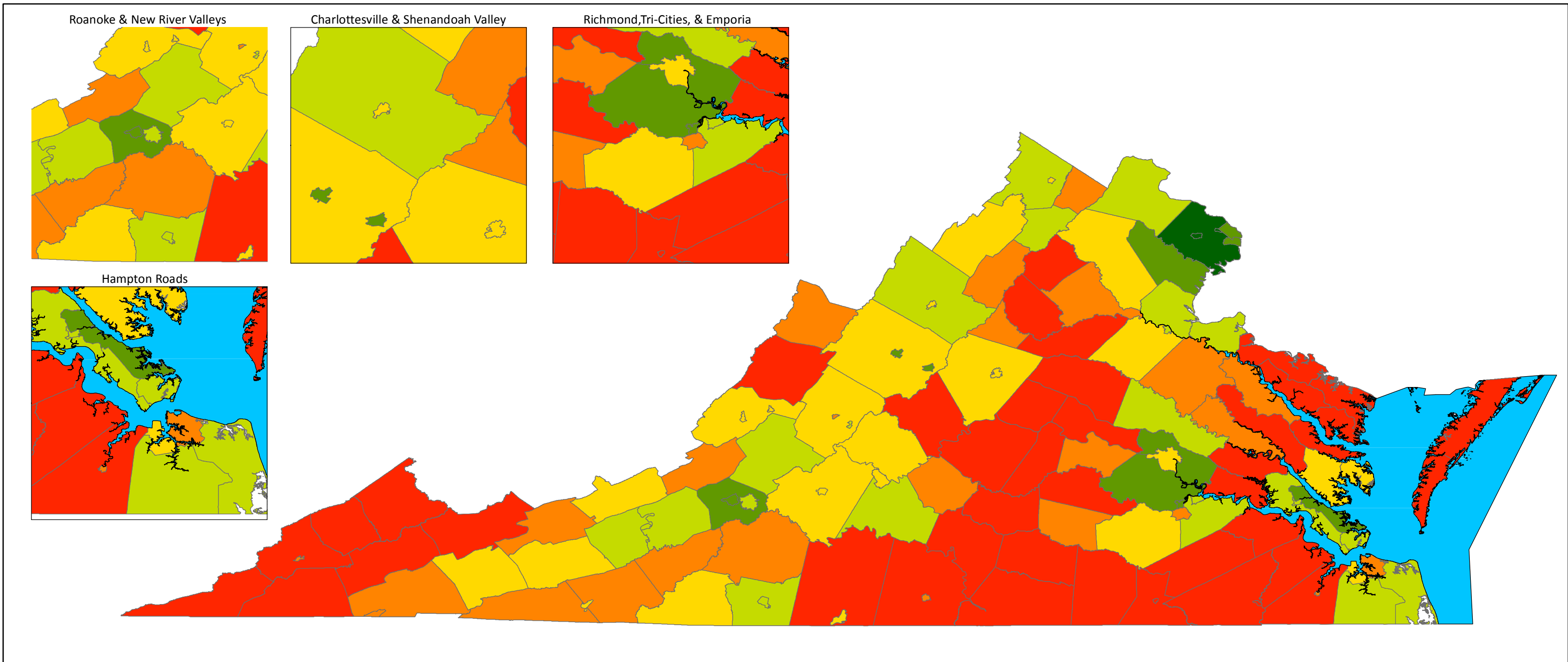
## **Appendix E: Poverty by City and County: 1960 – 2015**

# Commonwealth of Virginia: 1960 Poverty By Locality



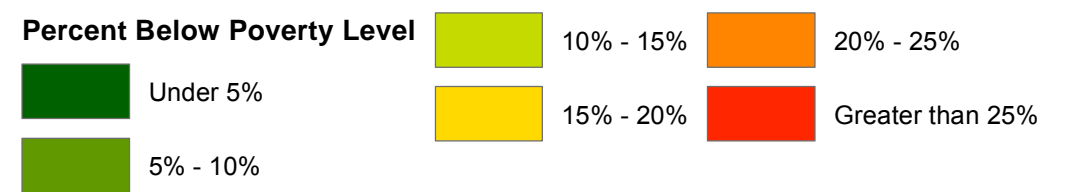
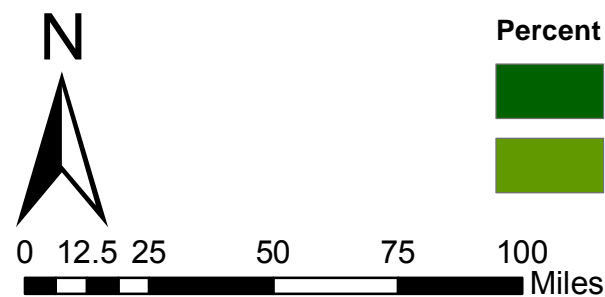
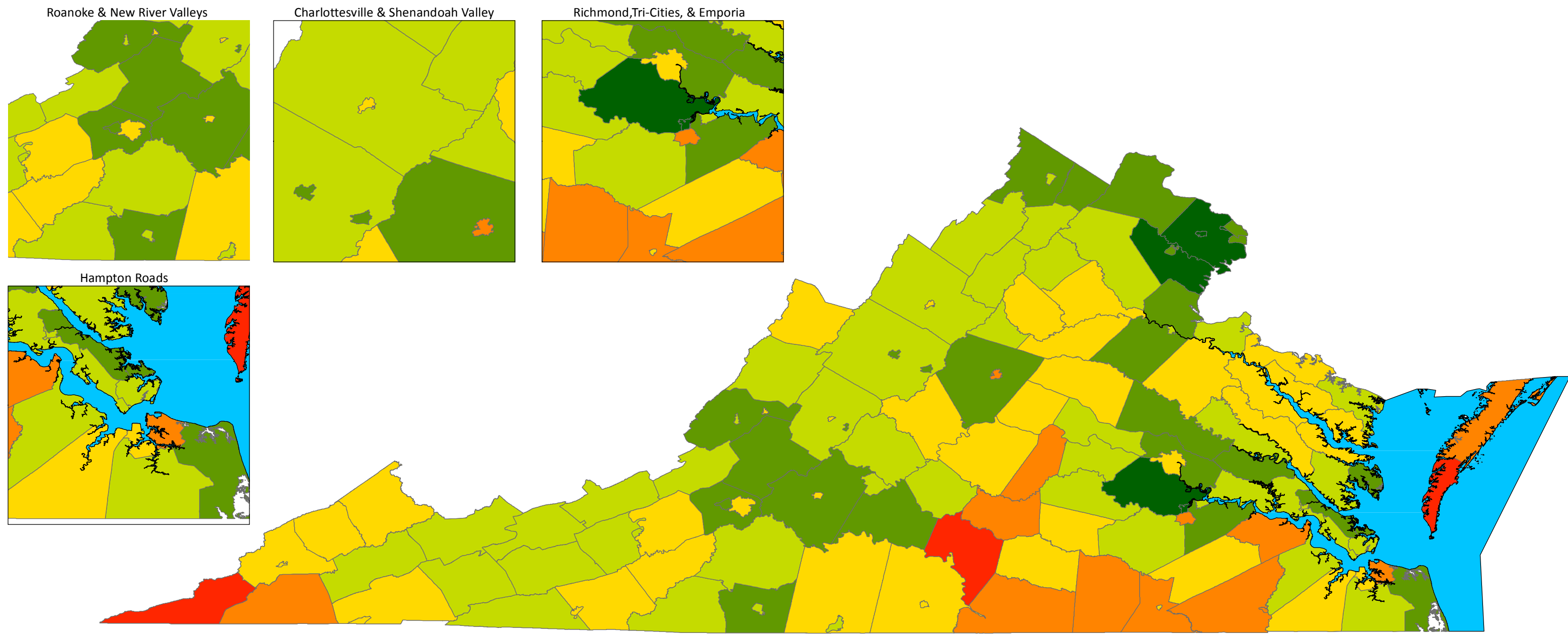
Source: U.S. Census Bureau; VA Department of Housing and Community Development; Steven Manson, Jonathan Schroeder, David Van Riper, and Steven Ruggles. IPUMS National Historical Geographic Information System:Version 12.0 [Database]. Minneapolis: University of Minnesota. 2017. <http://doi.org/10.18128/D050.V12.0>

# Commonwealth of Virginia: 1970 Poverty By Locality



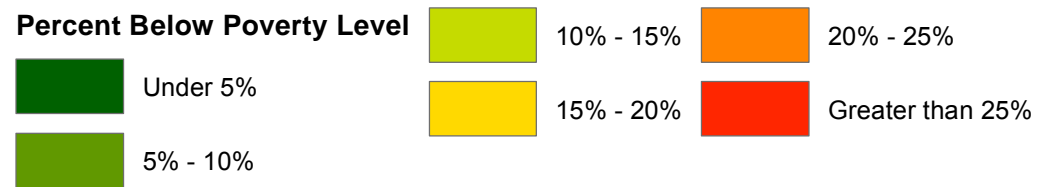
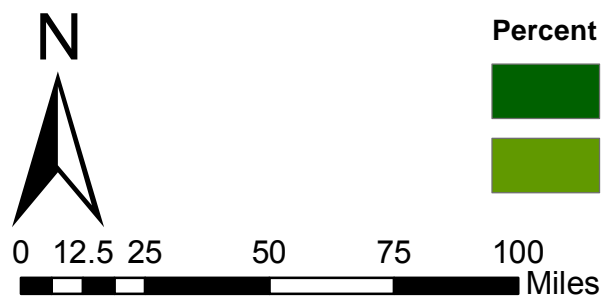
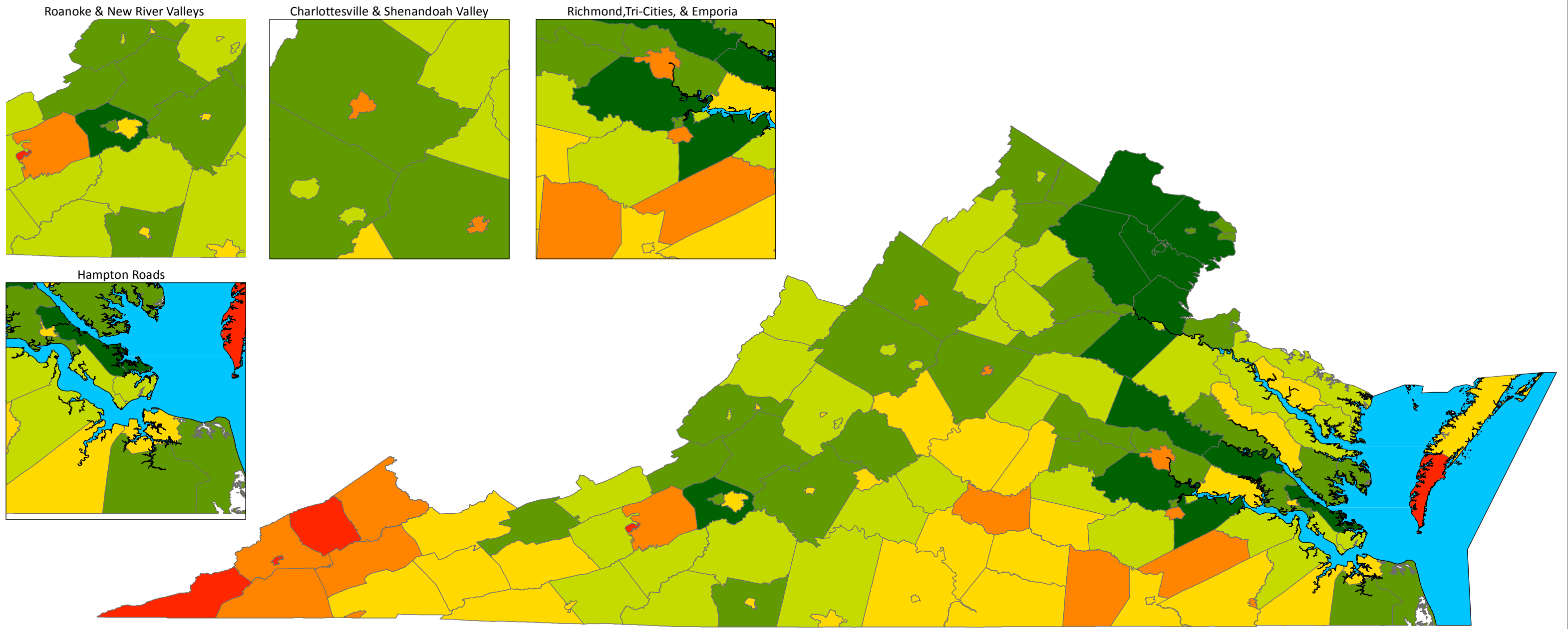
Source: U.S. Census Bureau; VA Department of Housing and Community Development; Steven Manson, Jonathan Schroeder, David Van Riper, and Steven Ruggles. IPUMS National Historical Geographic Information System:Version 12.0 [Database]. Minneapolis: University of Minnesota. 2017. <http://doi.org/10.18128/D050.V12.0>

# Commonwealth of Virginia: 1980 Poverty By Locality



Source: U.S. Census Bureau; VA Department of Housing and Community Development; Steven Manson, Jonathan Schroeder, David Van Riper, and Steven Ruggles. IPUMS National Historical Geographic Information System:Version 12.0 [Database]. Minneapolis: University of Minnesota. 2017. <http://doi.org/10.18128/D050.V12.0>

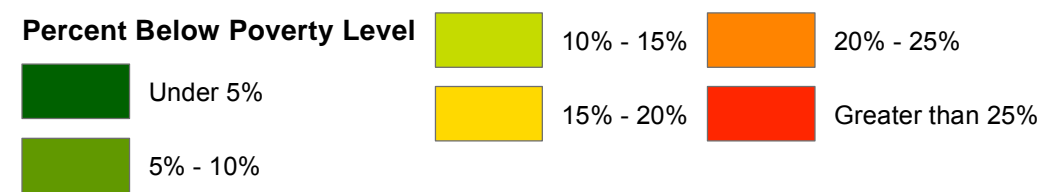
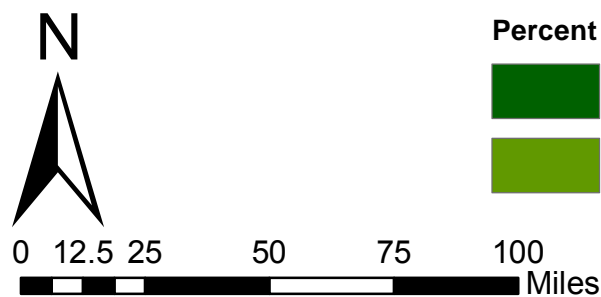
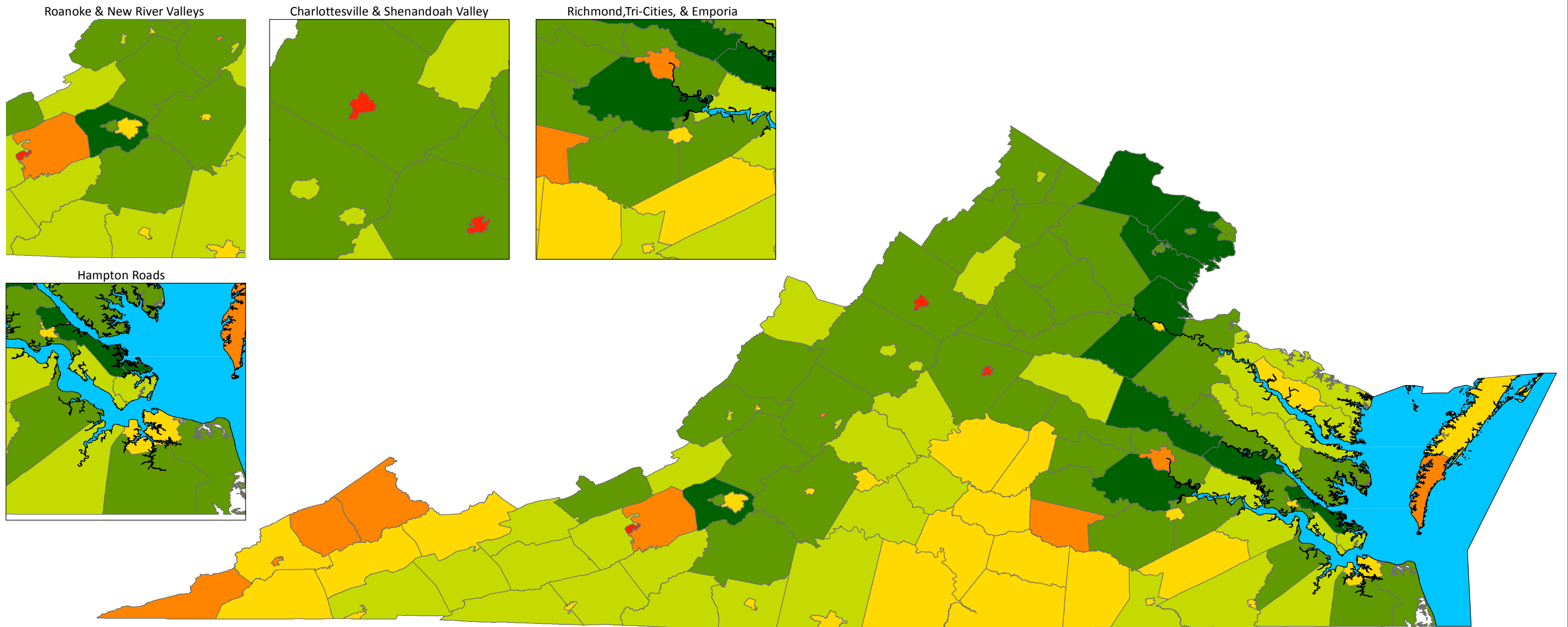
# Commonwealth of Virginia: 1990 Poverty By Locality



Source: U.S. Census Bureau; VA Department of Housing and Community Development; Steven Manson, Jonathan Schroeder, David Van Riper, and Steven Ruggles. IPUMS National Historical Geographic Information System:Version 12.0 [Database]. Minneapolis: University of Minnesota. 2017. <http://doi.org/10.18128/D050.V12.0>

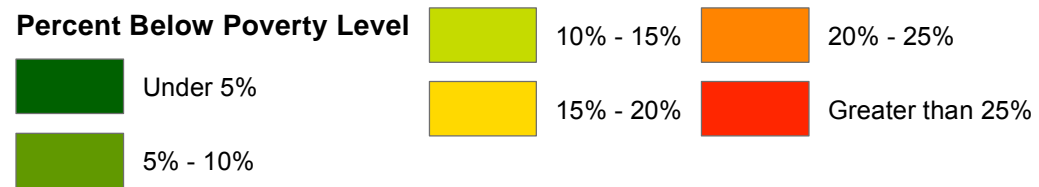
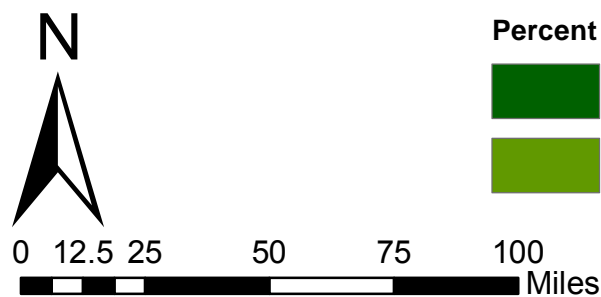
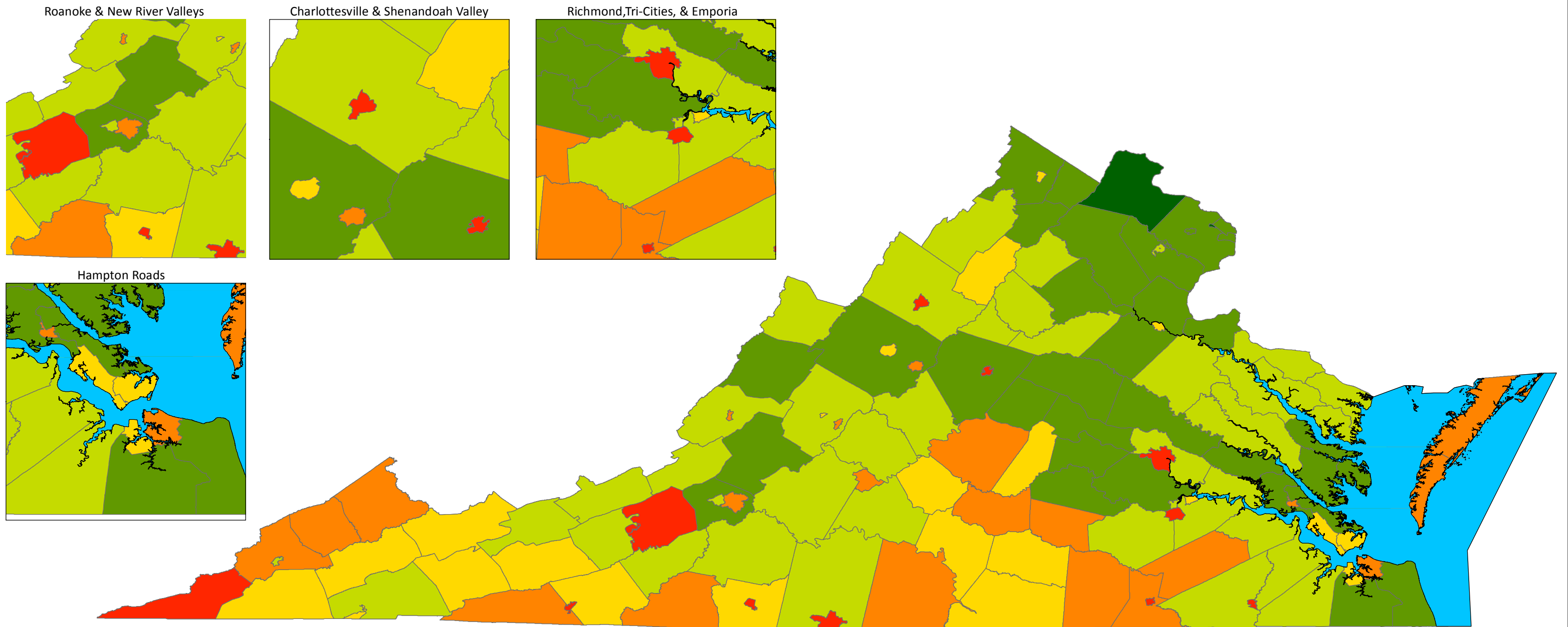


# Commonwealth of Virginia: 2000 Poverty By Locality



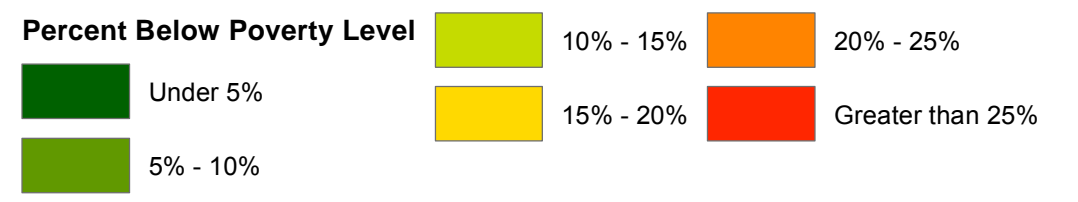
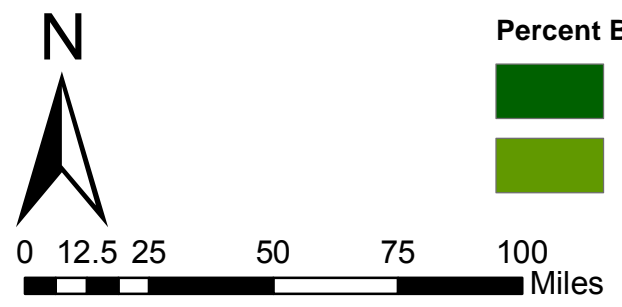
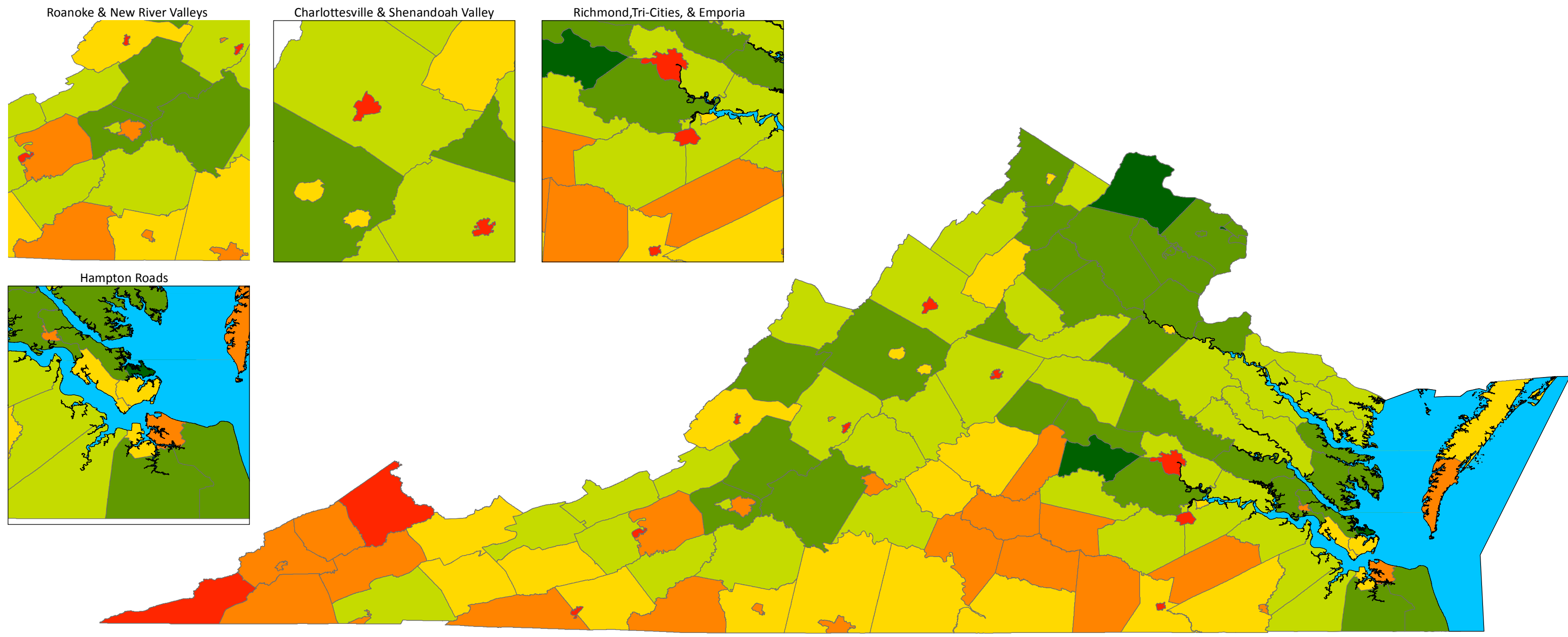
Source: U.S. Census Bureau; VA Department of Housing and Community Development; Steven Manson, Jonathan Schroeder, David Van Riper, and Steven Ruggles. IPUMS National Historical Geographic Information System:Version 12.0 [Database]. Minneapolis: University of Minnesota. 2017. <http://doi.org/10.18128/D050.V12.0>

# Commonwealth of Virginia: 2010 Poverty By Locality



Source: U.S. Census Bureau; VA Department of Housing and Community Development; Steven Manson, Jonathan Schroeder, David Van Riper, and Steven Ruggles. IPUMS National Historical Geographic Information System:Version 12.0 [Database]. Minneapolis: University of Minnesota. 2017. <http://doi.org/10.18128/D050.V12.0>

# Commonwealth of Virginia: 2015 Poverty By Locality



Source: U.S. Census Bureau; VA Department of Housing and Community Development; Steven Manson, Jonathan Schroeder, David Van Riper, and Steven Ruggles. IPUMS National Historical Geographic Information System:Version 12.0 [Database]. Minneapolis: University of Minnesota. 2017. <http://doi.org/10.18128/D050.V12.0>

**Appendix F: Local Taxing and Selected Functional Authority Summary**

**TAXING POWERS GRANTED TO VIRGINIA COUNTIES, CITIES, AND TOWNS**

<u>VA Code</u>	<u>Taxing Authority</u>	<u>Local Governments Empowered to Levy</u>	<u>County - Town Relationship</u>	<u>Remarks</u>
§58.1-3200	Real Property	Counties, Cities, Towns, and Special Districts	Town tax is levied in addition to county tax. Towns may conduct own reassessment, but none currently do so; all rely on county assessment.	See Note 2 for discussion on service district taxes.
§§58.1-3501; 58.1-3523 et seq.	Tangible Personal Property	Counties, Cities, and Towns	Town tax is levied in addition to county tax.	See Note 3 for discussion on state reimbursement of taxes levied.
§58.1-3507	Machinery and Tools	Counties, Cities, and Towns	Town tax is levied in addition to county tax.	Rate may not be higher than levied on tangible personal property. Idle machinery and tools are classified as intangible personal property are not subject to local taxation.
§58.1-3509	Merchants' Capital	Counties, Cities, and Towns	Town tax is levied in addition to county tax.	Rate may not exceed the rate in effect on 1/1/78. May not be levied on any class on which BPOL tax is levied.
§§58.1-605, 58.1-606	Sales and Use	Counties and Cities	Town may levy tax if its county does not.	Limited to 1% of the gross sales price of an item. Towns with separate school districts receive a proportion of the county's total sales tax revenue, based on school-age population. For all other towns, one-half of the county's revenue is divided among the county and towns, based on school-age population.
§46.2-752	Motor Vehicle License	Counties, Cities, and Towns	Imposition of tax by town constitutes a credit for taxpayers on the county tax. The taxpayer is liable to the county for the difference between the town tax and the county tax. When town constitutes a separate school district and charges tax, county shall not impose its tax on town residents.	Tax may not exceed motor vehicle license tax imposed by State.

<b>VA Code</b>	<b>Taxing Authority</b>	<b>Local Governments Empowered to Levy</b>	<b>County - Town Relationship</b>	<b>Remarks</b>
§58.1-3814	Utility Consumers	Counties, Cities, and Towns	If a county imposes the tax, it cannot apply within towns provided that the town provides police or fire protection, and water or sewer service; or if the town constitutes a separate school division.	Rate not to exceed 20% and applicable only to first \$15 of bill for residential customers. (Beginning in 2001, rate on electricity or gas consumption to be based on number of kilowatt hours or cubic feet consumed. The effective cap of \$3 per month would remain the same, however, unless locality had a higher tax on 1/1/07.) After January 1, 2007, localities may not levy consumer utility tax on landline or wireless telephone service or cable television service.
§§58.1-3833, 58.1-3840, 58.1-3842	Food and Beverage	Counties, Cities, and Towns	If town levies tax, county tax applicable in town only if council agrees.	Counties limited to maximum rate of 4% and may levy tax only after approved in referendum, except for Arlington, Frederick, Montgomery, Roanoke, and Rockbridge Counties, which may impose tax if unanimously approved by board of supervisors. Madison and Rappahannock Counties may levy a combined food and beverage and transient occupancy tax at a maximum rate of 4% on bed and breakfast establishments. No limit on towns or cities and referendum not required.
§58.1-3830, 58.1-3831	Cigarettes	Arlington and Fairfax Counties; Cities, and Towns	If town levies tax, county tax applicable in town only if council agrees.	Cities and towns may levy tax only if they had authority to do so prior to 1/1/77. Arlington and Fairfax limited to tax of \$0.05 per pack, or amount levied by State law, whichever is greater.
§§58.1-3819, 58.1-3823, 58.1-3824, 58.1-3825, 58.1-3825.2, 58.1-3825.2:1, 58.2-3825.3 58.1-3840	Transient Occupancy	Counties, Cities, and Towns	If town levies tax, county tax applicable in town only if council agrees.	Counties limited to maximum rate of 2%. 55 counties have been authorized to impose an additional 3% to promote tourism, and are listed in § 58.1-3819(A). Roanoke County's charter permits a 5% rate. Arlington, Bath, Bedford, Botetourt, Chesterfield, Fairfax, Hanover, Henrico, James City, Rockbridge, Rockingham, and York are authorized to collect additional amounts for specific regional projects, tourism promotion, or other specified uses. No limit on cities or towns.

<b>VA Code</b>	<b>Taxing Authority</b>	<b>Local Governments Empowered to Levy</b>	<b>County - Town Relationship</b>	<b>Remarks</b>
§§58.1-3818, 58.1-3818.01, 58.1-3840	Admissions	Arlington, Brunswick, Charlotte, Clarke, Culpeper, Dinwiddie, Fairfax, Madison, Nelson, New Kent, Prince George, Roanoke, Scott, Sussex, Washington, and Wythe Counties; Cities and Towns	County tax is in addition to any town tax.	Counties authorized to levy tax are limited to maximum of 10% except Roanoke, which has general charter power. Charlotte, Clarke, Madison, Nelson, and Sussex Counties may levy tax only for admissions to spectator events. Scott County may only impose \$0.25 tax on admissions to any off-track horse race wagering facility. All localities may elect not to collect tax for events raising funds for charitable purposes.
§58.1-3800	Recordation	Counties and Cities		Limited to one-third of State recordation tax.
§58.1-3805	Probate	Counties and Cities		Limited to one-third of State recordation tax. Localities also can charge a \$25 fee to record a list of heirs of a decedent who died intestate.
§58.1-1730, 58.1-662	E-911	Counties, Cities, and Towns		Effective January 1, 2007, a uniform E-911 tax of \$0.75 per landline phone is collected by the State and deposited in the Communications Sales and Use Tax Trust Fund before remittance to localities (see Note 4).
§58.1-3700, et seq.	Business, Professional and Occupational License [BPOL]	Counties, Cities, and Towns	Counties cannot levy BPOL taxes within a town that also levies BPOL taxes, unless the town agrees.	Commonly called “gross receipts tax”; may be levied on almost any type of business or occupation. State law places variety of caps on rates that can be levied against particular types of businesses. Also, localities with populations over 50,000 may not levy tax against a business with gross receipts of less than \$100,000. For those localities with a population of 25,000 to 50,000, the threshold is \$50,000. All localities may impose a license fee in those instances in which the tax is not levied. The fee may range from \$30 to \$100, depending on the size of the locality. Any locality imposing a fee or tax must adopt a uniform ordinance. No category can be required to pay both merchants’ capital tax and BPOL tax to the same jurisdiction. Numerous business types are exempted. Beginning in 2011, localities may opt to levy BPOL on Virginia taxable income instead of gross receipts.

<b>VA Code</b>	<b>Taxing Authority</b>	<b>Local Governments Empowered to Levy</b>	<b>County - Town Relationship</b>	<b>Remarks</b>
§58.1-3510.4 et seq.	Short-Term Rental Property	Counties, Cities, and Towns	Town tax is levied in addition to county tax.	Limited to 1% of gross proceeds of short-term equipment rental, or 1.5 % for heavy-equipment rental.
§§ 58.1-3286, 58.1-3740 et seq.	Coal Severance	Counties and Cities		Limited to maximum of 1% of gross receipts from sale of coal mined. For small mines, the maximum levy is 0.75%.
§§58.1-3286, 58.1-3712, and 58.1-3713.4	Gas Severance	Counties and Cities		Limited to maximum of 2% of gross receipts from sale of gas produced. 25% of revenues in counties and city in Southwest Virginia paid to Virginia Coalfield Economic Development Fund.
§58.1-3713, §58.1- 3741	Coal and Gas Road Improvement	Counties and Cities	20% of revenue in Wise County required to be distributed to towns and city situated in county. Of that portion, 25% distributed according to number of registered motor vehicles and remainder divided equally.	Limited to maximum of 1% of gross receipts of sale of coal or gas mined or produced, or a maximum of 0.75% for small mines. Locality retains 75% of revenue which goes into special road improvement fund. However, locality may elect to use 25% to 50% of the retained amount to fund construction of new water systems and lines. Remaining 25% of revenue paid to Virginia Coalfield Economic Development Fund. Authority expires at end of 2015.
§58.1-3731	Utility License	Counties, Cities, and Towns	If town levies tax, county tax applicable in town only if council agrees.	Form of BPOL tax. Limited to maximum of 0.5% of gross receipts of utility company accruing from business in locality. After December 1, 2000, localities may not impose tax on electric or gas companies. Tax to be replaced by consumption tax established by State, collected by utility company, and distributed to locality.
§§4.1-205 and 4.1-233	Alcohol License	Counties, Cities, and Towns	If a town levies a tax, county tax not applicable in town.	Localities authorized to collect license taxes from persons engaged in manufacturing, selling, or bottling alcoholic beverages and mixed beverages. Maximum taxes set by § 4.1-233.
§§58.1-1208, §58.1-1209, §58.1-1210, §58.1-1211	Bank Franchise	Counties, Cities, and Towns	Counties may tax only those banks located outside town corporate limits.	Limited to maximum of 80% of the State rate on each \$100 of net capital of bank in the locality.



<b>VA Code</b>	<b>Taxing Authority</b>	<b>Local Governments Empowered to Levy</b>	<b>County - Town Relationship</b>	<b>Remarks</b>
§15.2-2108.1:1, 15.2-2108.22, 15.2-2108.23	Cable TV Franchise	Counties, Cities, and Towns		Fee rate from franchises negotiated by individual localities and in effect prior to 1/1/07 is frozen and fees are now collected by state and remitted from Communications Sale and Use Tax Trust Fund to individual localities (see Note 4).

**NOTES:**

1. This table outlines taxing authority allowed local governments by statutory law. In addition to this authority, cities and towns which have incorporated the Uniform Charter Powers Act (§§15.2-1100 – 15.2-1126) into their charters have a general taxing authority (§15.2-1104). Consequently, some municipalities may levy taxes as a result of this provision, or through explicit authority granted in their charters, which are not on this chart.
2. Counties, cities, and towns can implement service districts and levy additional taxes on real estate within the district for a variety of purposes. The locality must then appropriate the collected taxes to provide the service (§§15.2-2400 – 15.2-2403). Localities may also impose special assessments upon abutting property owners for constructing capital improvements (15.2-2404-2413). In addition, counties can create sanitary districts for a variety of services and fund them through a tax on property in the districts (21-112.22 et seq.). Counties can levy property taxes, either countywide or in one or more magisterial districts, to pay for contracted fire protection services (§27-3). The General Assembly has authorized the creation of special transportation districts within counties or between counties. Urban counties as defined in 15.2-2403.1 may, upon agreement with the Commonwealth Transportation Board, designate urban transportation service districts within which they must maintain the roads. Such counties will receive lane-mile maintenance payments equivalent to those made to cities and towns. Special property taxes can be levied on business or commercial properties within those districts (§§15.2-4806 and 15.2-4607).
3. In 1998, to offset the cost of the personal property tax on motor vehicle, the State reimbursed motor vehicle owners 100% of the tax paid on vehicles with an assessed value of \$1,000 or less. Vehicles assessed at more than \$1,000 and up to a maximum assessed value of \$20,000, the reimbursement was 12.5% of the tax levied. After 1998, the proportion of the tax the State reimbursed to localities was to be increase until it reaches 100% in 2002, but the 2002 General Assembly limited the reimbursement to 70%. The owners of vehicles with an assessed value of more than \$20,000 are responsible for the entire tax on the value above \$20,000. The State reimbursement is applicable only to vehicles used for non-business purposes and is limited to the local effective tax rate in effect on August 1, 1997. Localities are not prohibited from increasing the personal property tax rate on motor vehicles, but the owners of any motor vehicles in any locality doing so will be responsible for paying the entire difference between the amount owed under the new rate and what would have been owed under the base rate.
4. House Bill 568 (2006) replaced an array of state and local taxes on communications with a Communications Sale and Use Tax and an E-911 Tax administered by the state. The Communications Sale and Use Tax is imposed on consumers of communications services including landline and wireless telephone, (including Voice-Over-Internet-Protocol), paging, cable television, and satellite radio and television. Service providers collect the tax from consumers and remit it to the state, which deposits revenues in the Communications Sale and Use Tax Trust Fund. The state also collects cable TV franchise fees and and E-911 taxes and deposits them in the Fund. After paying franchise fees to the localities that generated them, the state deducts amounts for administration and the operation of phone relay service for the deaf and hard-of-hearing. The remainder is then distributed to localities based on the percentage of total communications taxes (landline and wireless phone, E-911, consumer utility tax on cable TV, BPOL tax in excess of 0.5%, cable TV franchise fees, video programming excise tax) that they collected pursuant to local rates in effect as of 1/1/06.

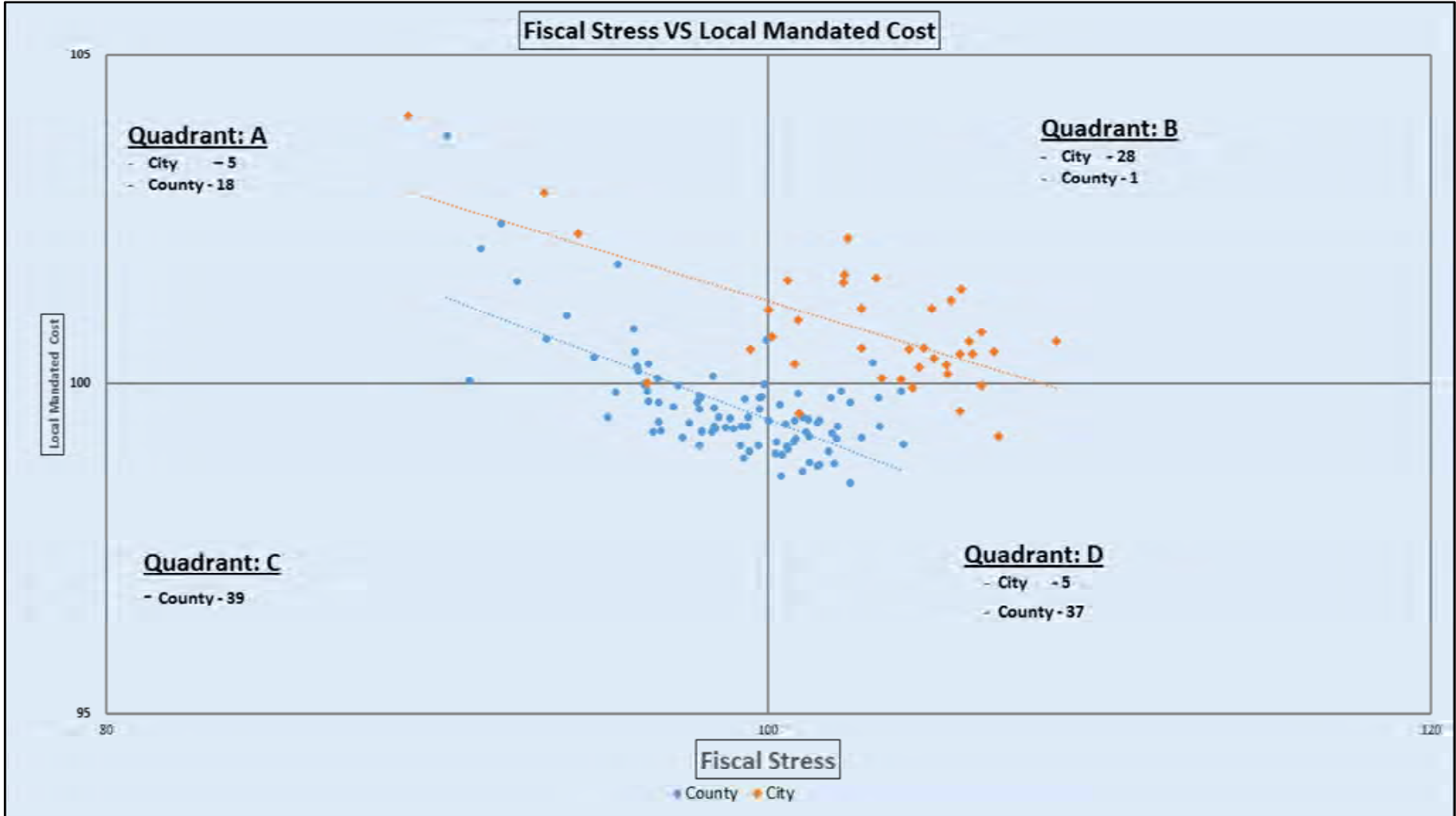
Selection of Functional Authority of Virginia Local Government

Functional Activity	Counties	Cities	Towns	State Financial Assistance
<b>Finance</b>				
Incurring Debt	Authorized to issue general obligation bonds only if approved by voters in referendum, except for certain school bonds. There is no referendum required nor amount limitation imposed regarding revenue bonds. (Virginia Constitution, Article VII, §10)	Authorized to issue general obligation bonds so long as total general indebtedness does not exceed ten percent of assessed value of taxable real property; no referendum required. There is no amount limitation imposed regarding revenue bonds. (Virginia Constitution, Article VII, §10)	Authorized to issue general obligation bonds so long as total general indebtedness does not exceed ten percent of assessed value of taxable real property; no referendum required. There is no amount limitation imposed regarding revenue bonds. (Virginia Constitution, Article VII, §10)	N/A
<b>Public Safety</b>				
Law Enforcement	Provided by sheriff in most counties. Counties prohibited from creating police departments unless approved in referendum and subsequently authorized by General Assembly, except for those operating under the County Executive, County Manager, and Urban County Executive alternative forms of government and those with charter provisions allowing police departments. (§§15.2-528, 15.2-632, 15.2-836, and 15.2-1702)	Provided by police departments, as authorized by charters. (§§15.2-1700 and 15.2-1701)	Provided by police departments, as authorized by charters. (§§15.2-1700 and 15.2-1701) The sheriff has a duty to enforce all criminal laws within his jurisdiction, which includes towns within the county for which he is elected. (See Op. Va. Att’y. Gen., 1981-82, 333 and 1985-1986, 255, and Commonwealth v. Malbon, 195 Va. 368). If town does not have police department, county sheriff may enter into agreement to provide law enforcement services to town and serve as police chief of town. By implication, these services would be more intensive than those ordinarily provided by sheriffs to the town. (§15.2-1726)	State assistance provided for total cost of the salaries and other expenses of sheriffs’ offices, as approved by the Compensation Board. State assistance for law enforcement is also provided to cities and towns, and those counties with police departments, through a statutory formula based on crime rates. (§§9.1-166 through 9.1-172, 15.2-1609.7)
Highway and Street Construction	State is responsible for construction of all roads accepted into the state highway system in all counties except Arlington and Henrico, which have retained responsibility for construction of secondary highways within their jurisdictions. The latter localities are authorized to relinquish that responsibility to the state if they choose. (§§33.2-243 through 33.2-246). Any county may enter into agreement with Commonwealth Transportation Commissioner to resume responsibility for planning, constructing, maintaining, and operating secondary highways (33.2-342). Any county may use local funds to supplement state construction activity. (§33.2-338)	Authorized to construct and control streets and highways within jurisdiction, except for interstate and primary highways. (§§15.2-2000 and 15.2-2001)	Authorized to construct and control streets and highways within jurisdiction which are not part of state highway system. However, in towns with less than 3,500, streets which constitute connecting links between roads in the secondary system are included in the secondary system. (§§15.2-2000, 15.2-2001, 33.2-320, and 33.2-324)	State is responsible for construction and control of interstate, primary, and secondary highways. (§§33.2-310, 33.2-300, 33.2-324, and 33.2-326) State pays 98 per cent of cost of construction of qualifying roadway in cities and in towns with a population of more than 3,500. In towns with population under 3,500, state will pay entire cost of construction of qualifying roadway. (§33.2-348)

Selection of Functional Authority of Virginia Local Government

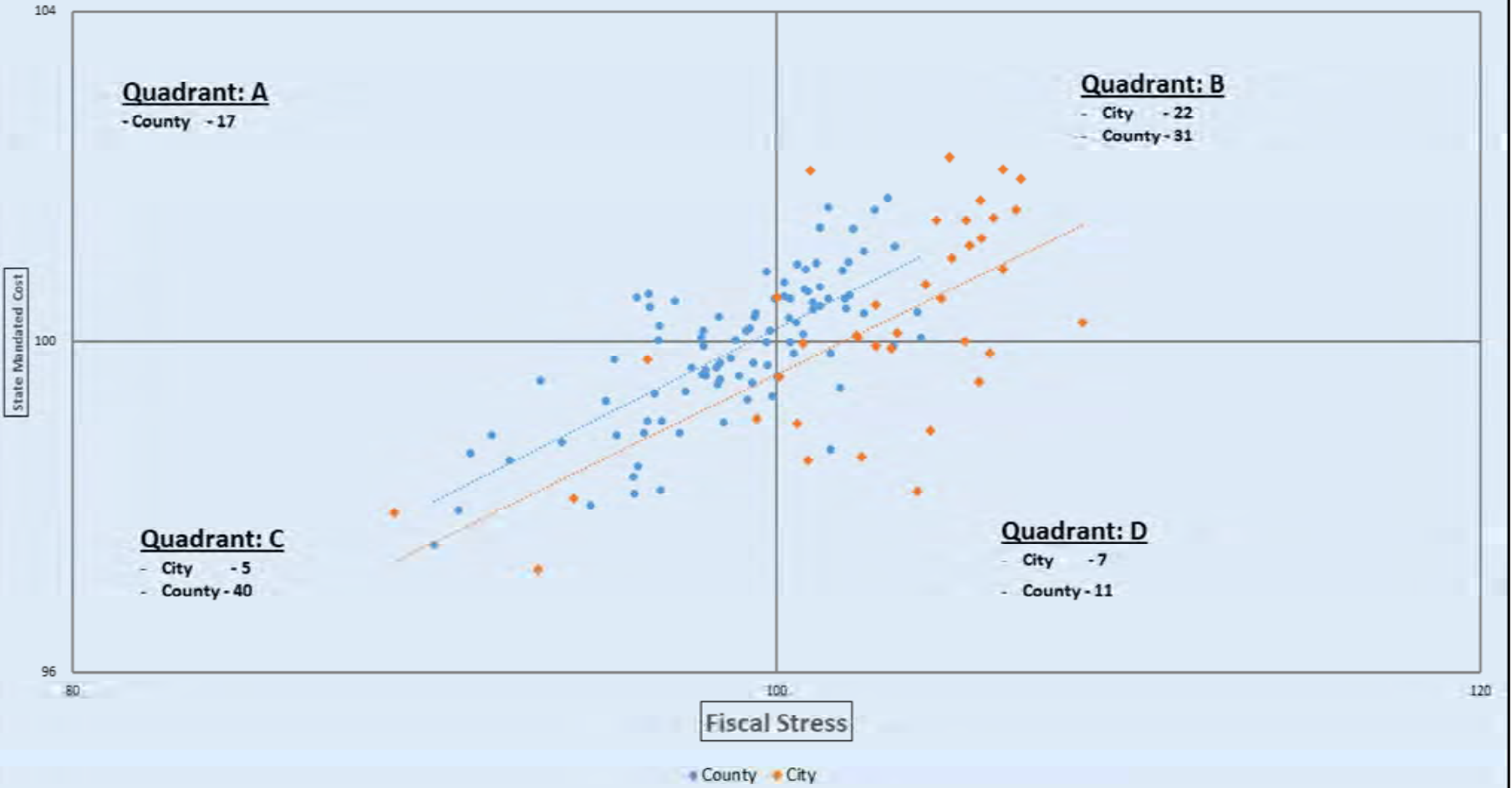
Functional Activity	Counties	Cities	Towns	State Financial Assistance
Transportation				
Highway and Street Maintenance	State is responsible for maintenance of all roads accepted into the state highway system in all counties except Arlington and Henrico, which have retained responsibility for maintenance of secondary highways within their jurisdiction. The latter localities are authorized to relinquish that responsibility to the State if they choose. (§§33.2-343 through 33.2-346)	Authorized to maintain streets and highways within jurisdiction, except for interstate and primary highways (§§15.2-2000 and 15.2-2001)	Authorized to maintain streets and highways within jurisdiction, except for interstate and primary highways. (§§15.2-2000 and 15.2-2001). For towns with less than 3,500 population, state will, with consent of town, incorporate into the state highway system, and maintain, those streets which constitute connecting links in the state highway system. (§§33.2-319 and 33.2-320) Such towns may request that the state maintain up to 2 miles of roads whether or not they constitute such connecting links, and may further request that the state accept for maintenance up to 1/4 mile of roads annually (§33.2-339). Towns under 3,500 that otherwise choose to maintain their own roads may still add some roads to state secondary system, provided the roads meet certain requirements (33.2-340).	State maintains interstate, primary, and secondary highways. (§§33.2-310, 33.2-300, and 33.2-326) For cities and for towns with a population of 3,500 or more, state provides funds to assist in maintaining urban streets that meet state standards; payments based on number of moving lane-miles, with rate based on cost to state of maintaining roads in counties. (§33.2-319)

## **Appendix G: Analysis of State and Local Cost of Mandated Services**



- **Quadrant: A** – **City** – Alexandria, Fairfax, Falls Church, Poquoson and Virginia Beach. (5) **County** – Albemarle, Arlington, Bath, Fairfax, Fauquier, Goochland, Henrico, Highland, James City, Lancaster, Loudoun, Northampton, Northumberland, Prince William, Rappahannock, Rockbridge, Surry and York. (18)
- **Quadrant: B** – **City** – Bristol, Charlottesville, Chesapeake, Colonial Heights, Danville, Emporia, Franklin, Fredericksburg, Galax, Hampton, Hopewell, Lexington, Lynchburg, Manassas, Martinsville, Newport News, Norfolk, Norton, Petersburg, Portsmouth, Richmond, Roanoke, Salem, Staunton, Suffolk, Waynesboro, Williamsburg and Winchester. (28) **County** – Dickenson. (1)
- **Quadrant: C** – **County** – Amelia, Augusta, Bedford, Botetourt, Caroline, Charles City, Chesterfield, Clarke, Craig, Culpeper, Essex, Floyd, Fluvanna, Franklin, Frederick, Gloucester, Greene, Hanover, Isle of Wight, King and Queen, King George, King William, Louisa, Madison, Mathews, Middlesex, Nelson, New Kent, Orange, Powhatan, Prince George, Richmond, Roanoke, Rockingham, Shenandoah, Spotsylvania, Stafford, Warren and Westmoreland. (39)
- **Quadrant: D** – **City** – Buena Vista, Covington, Radford, Harrisonburg and Manassas Park. (5) **County** – Accomack, Alleghany, Amherst, Appomattox, Bland, Brunswick, Buchanan, Buckingham, Campbell, Carroll, Charlotte, Cumberland, Dinwiddie, Giles, Grayson, Greensville, Halifax, Henry, Lee, Lunenburg, Mecklenburg, Montgomery, Nottoway, Page, Patrick, Pittsylvania, Prince Edward, Pulaski, Russell, Scott, Smyth, Southampton, Sussex, Tazewell, Washington, Wise and Wythe. (37)

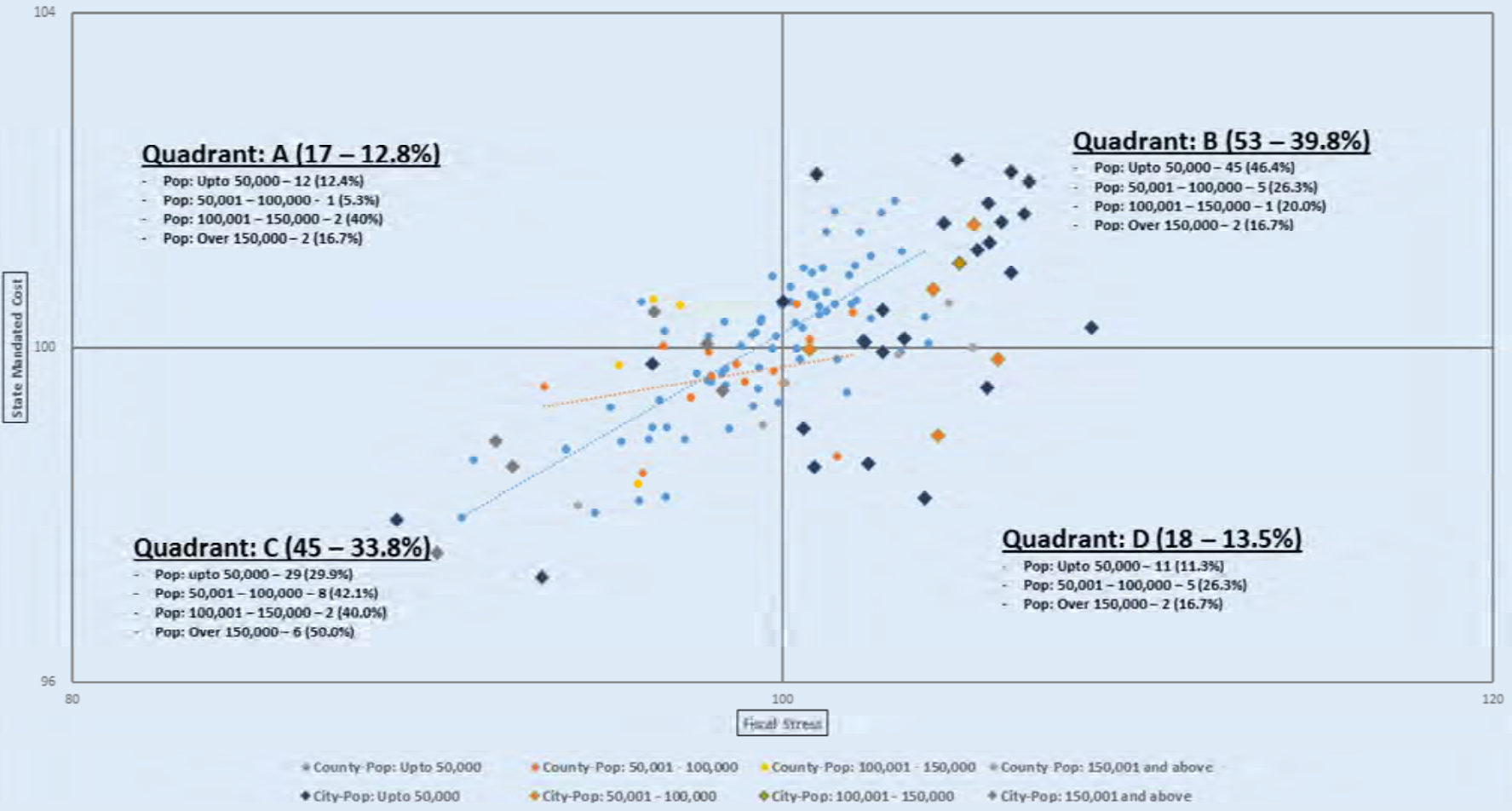
### Fiscal Stress VS State Mandated Cost



- **Quadrant: A** – **County** – Amelia, Caroline, Chesterfield, Craig, Culpeper, Floyd, Greene, Highland, King George, Madison, Northampton, Prince George, Prince William, Richmond, Spotsylvania, Stafford and York. (17)
- **Quadrant: B** – **City** Bristol, Buena Vista, Colonial Heights, Covington, Danville, Emporia, Franklin, Galax, Hampton, Hopewell, Manassas, Manassas Park, Martinsville, Newport News, Norfolk, Norton, Petersburg, Portsmouth, Roanoke, Staunton, Waynesboro and Winchester. (22) **County** – Accomack, Alleghany, Appomattox, Bland, Brunswick, Buchanan, Campbell, Carroll, Charlotte, Cumberland , Dickenson, Dinwiddie, Giles, Greensville, Halifax, Lee, Lunenburg, Henry, Mecklenburg, Nottoway, Page, Patrick, Pittsylvania, Pulaski, Russell , Scott, Smyth, Southampton, Tazewell, Wise and Wythe. (31)
- **Quadrant: C** – **City** – Alexandria, Fairfax, Falls Church, Poquoson and Virginia Beach. (5) **County** - Albemarle, Arlington, Augusta, Bath, Bedford, Botetourt, Charles City, Clarke, Essex, Fairfax, Fauquier, Fluvanna, Franklin, Frederick, Gloucester, Goochland, Hanover, Henrico, Isle of Wight, James City, King and Queen, King William , Lancaster, Loudoun, Louisa, Mathews, Middlesex, Nelson, New Kent, Northumberland, Orange, Powhatan, Rappahannock, Roanoke, Rockbridge, Rockingham, Shenandoah, Surry, Warren and Westmoreland. (40)
- **Quadrant: D** – **City** – Amherst, Buckingham, Grayson, Montgomery, Prince Edward, Sussex and Washington. (7) **County** – Charlottesville, Chesapeake, Fredericksburg, Harrisonburg, Lexington, Lynchburg, Radford, Richmond, Salem, Suffolk and Williamsburg. (11)

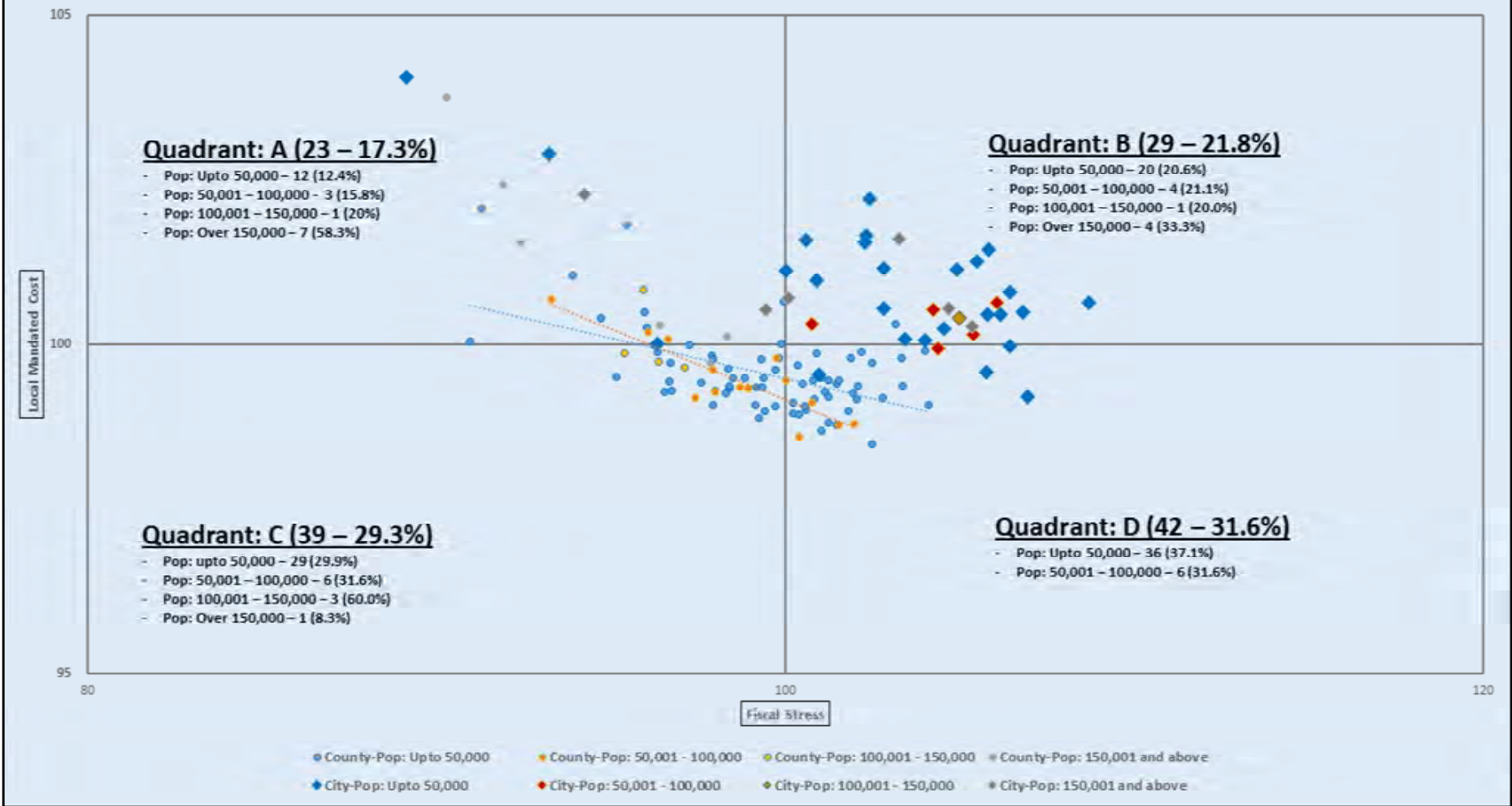


### Fiscal Stress VS State Mandated Cost



- **Quadrant: A** – **County** – Northampton, Caroline, Prince George, Craig, Richmond, Floyd, Amelia, Greene, Culpeper, Madison, Chesterfield, Spotsylvania, King George, York, Prince William, Stafford and Highland (17)
- **Quadrant: B** – **City** – Emporia, Buena Vista, Petersburg, Martinsville, Covington, Galax, Franklin, Hopewell, Bristol, Portsmouth, Norfolk, Hampton, Norton, Newport News, Danville, Roanoke, Staunton, Waynesboro, Winchester, Colonial Heights, Manassas Park and Manassas. **County** – Accomack, Alleghany, Appomattox, Bland, Brunswick, Buchanan, Campbell, Carroll, Charlotte, Cumberland, Dickenson, Dinwiddie, Giles, Greensville, Halifax, Henry, Lee, Lunenburg, Mecklenburg, Nottoway, Page, Patrick, Pittsylvania, Pulaski, Russell, Scott, Smyth, Southampton, Tazewell, Wise and Wythe (53)
- **Quadrant: C** – **City** – Alexandria, Fairfax Falls Church, Poquoson and Virginia Beach. **County** – Albemarle, Arlington, Augusta, Bath, Bedford, Botetourt, Charles City, Clarke, Essex, Fairfax, Fauquier, Fluvanna, Franklin, Frederick, Gloucester, Goochland, Hanover, Henrico, Isle of Wight, James City, King and Queen, King William, Lancaster, Loudoun, Louisa, Mathews, Middlesex, Nelson, New Kent, Northumberland, Orange, Powhatan, Rappahannock, Roanoke, Rockbridge, Rockingham, Shenandoah, Surry, Warren and Westmoreland (45)
- **Quadrant: D** – **City** – Charlottesville, Chesapeake, Fredericksburg, Harrisonburg, Lexington, Lynchburg, Radford, Richmond, Salem, Suffolk and Williamsburg. **County** – Amherst, Buckingham, Grayson, Montgomery, Prince, Edward, Sussex and Washington. (18)

**Fiscal Stress VS Local Mandated Cost**



- **Quadrant: A – City** - Alexandria, Fairfax, Falls Church, Poquoson and Virginia Beach **County** – Albemarle, Arlington, Bath, Fairfax, Fauquier, Goochland, Henrico, Highland, James City, Lancaster, Loudoun, Northampton, Northumberland, Prince William, Rappahannock, Rockbridge, Surry and York (23)
- **Quadrant: B – City** – Bristol, Charlottesville, Chesapeake, Colonial Heights, Danville, Franklin, Fredericksburg, Emporia, Galax, Hampton, Hopewell, Lexington, Lynchburg, Manassas, Martinsville, Newport News, Norfolk, Norton, Petersburg, Portsmouth, Richmond, Roanoke, Salem, Staunton, Suffolk, Waynesboro, Williamsburg and Winchester . **County** - Dickenson County (29)
- **Quadrant: C – County** – Amelia, Augusta, Bedford, Botetourt, Caroline, Charles City, Chesterfield, Clarke, Craig, Culpeper, Essex, Floyd, Fluvanna, Franklin, Frederick, Gloucester, Greene, Hanover, Isle of Wight, King and Queen, King George, King William, Louisa, Madison, Mathews, Middlesex, Nelson, New Kent, Orange, Powhatan, Prince George, Richmond, Roanoke, Rockingham, Shenandoah, Spotsylvania, Stafford, Warren and Westmoreland (39)
- **Quadrant: D – City** - Buena Vista, Covington, Harrisonburg, Manassas Park and Radford. **County** – Accomack, Alleghany, Amherst, Appomattox, Bland, Brunswick, Buchanan, Buckingham, Campbell, Carroll, Charlotte, Cumberland, Dinwiddie, Giles, Grayson, Greensville, Halifax, Henry, Lee, Lunenburg, Mecklenburg, Montgomery, Nottoway, Page, Patrick, Pittsylvania, Prince Edward, Pulaski, Russell, Scott, Smyth, Southampton, Sussex, Tazewell, Washington, Wise and Wythe. (42)

## **Appendix H: Annexation Immunity Analysis**

\*Eligibility for Total/Partial Immunity from Annexation

Annexation Immunity Analysis

County	Area	Census 2010		Weldon Cooper 2017		Eligibility Attained	Adjacent/Interior Cities
		Population	Density	Population	Density		
Albemarle	720.70	98,970	137.33	107,697	149.43	2017 WC above threshold	Charlottesville
Arlington	25.97	207,627	7,993.50	239,074	9,204.19	1980	Alexandria, Falls Church
Chesterfield	423.30	316,236	747.08	340,020	803.27	Statutory Immunity in 1981	Colonial Heights, Hopewell, Petersburg, Richmond
Fairfax	390.97	1,081,726	2,766.78	1,143,429	2,924.60	1980	Alexandria, Fairfax, Falls Church
Frederick	413.50	78,305	189.37	85,820	207.55	2000	Winchester
Hanover	468.54	99,863	213.14	106,375	227.04	2010	none
Henrico	233.70	306,935	1,313.39	324,395	1,388.10	Statutory Immunity in 1980	Richmond
Henry	382.33	54,151	141.63	51,975	135.94	Statutory Immunity in 1984	Martinsville
James City	142.44	67,009	470.45	74,722	524.60	2010	Williamsburg, Newport News
Loudoun	515.56	312,311	605.77	396,068	768.23	1990	none
Montgomery	387.01	94,392	243.90	98,776	255.23	1980	Radford
Prince William	336.40	402,002	1,195.01	455,990	1,355.49	Statutory Immunity in 1982	Manassas, Manassas Park
Roanoke	250.52	92,376	368.74	93,735	374.17	Statutory Immunity in 1982	Roanoke, Salem
Spotsylvania	401.50	122,397	304.85	131,549	327.65	1990	Fredericksburg
Stafford	268.96	128,961	479.49	145,699	541.72	1990	Fredericksburg
York	104.78	65,464	624.77	68,890	657.47	Statutory Immunity in 1981	Hampton, Newport News, Poquoson, Williamsburg

\*Per § 15.2-3302 of the Code of VA, to be eligible for immunity a county needs (i) a population of at least 20,000 persons and a density of at least 300 persons/mi.<sup>2</sup>, or (2) a minimum population of 50,000 and a population density of at least 140 persons/mi.<sup>2</sup> based on latest Census or Weldon Cooper population estimates. However, there is a moratorium on total immunity from annexation per § 15.2-3201.

\*Per § 15.2-3304 of the Code of VA, a county can be eligible for partial immunity from city-initiated annexation for areas where the provision of urban-type services are being provided. However, there is a moratorium on partial immunity from annexation per § 15.2-3201.

\*Eligibility for Total/Partial Immunity from Annexation

Cities not listed	Other cities previously listed where still be possible but other issues could be involved
Bristol	Hopewell (Prince George - partial immunity)
Buena Vista	Petersburg (Dinwiddie, Prince George - partial immunity)
Chesapeake (not possible)	Radford (Pulaski - annex across a river)
Covington	Staunton (Augusta - partial immunity)
Danville	Waynesboro (Augusta - partial immunity)
Emporia	
Franklin	
Galax	
Harrisonburg	
Lexington	
Lynchburg	
Norfolk (not possible)	
Norton	
Portsmouth (not possible)	
Suffolk	
Virginia Beach (not possible)	

