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VIRGINIA DEPARTMENT FOR AGING
AND REHABILITATIVE SERVICES

*Supporting Virginians' efforts
to secure independence and employment*



THE POLICY DEVELOPMENT PROCESS

Virginia Brain Injury Council
January 22, 2025



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Virginia Government

Three Branches – Resembles the Federal Government

Executive –

- Governor, Lieutenant Governor, State Attorneys General, State Agencies, etc.

Legislative –

- In Virginia, House of Delegates and Senate
- Terminology and schedules/duration of sessions vary across states
- Committees are usually organized around topical areas (Health, Environment, Labor, etc.)

Judicial –

- State Supreme Court
- Court of Appeals
- Circuit Courts
- District Courts (General and Juvenile & Domestic Relations)
- Again, the specific structures can vary from state to state



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Local Governments in Virginia

U.S. Constitution is silent on local governments

Local governments are established by state governments

Home Rule v.
Dillon Rule

Home Rule: The state's constitution grants municipalities and/or counties the ability to pass laws to govern themselves as they see fit.

Virginia is a
Dillon Rule state

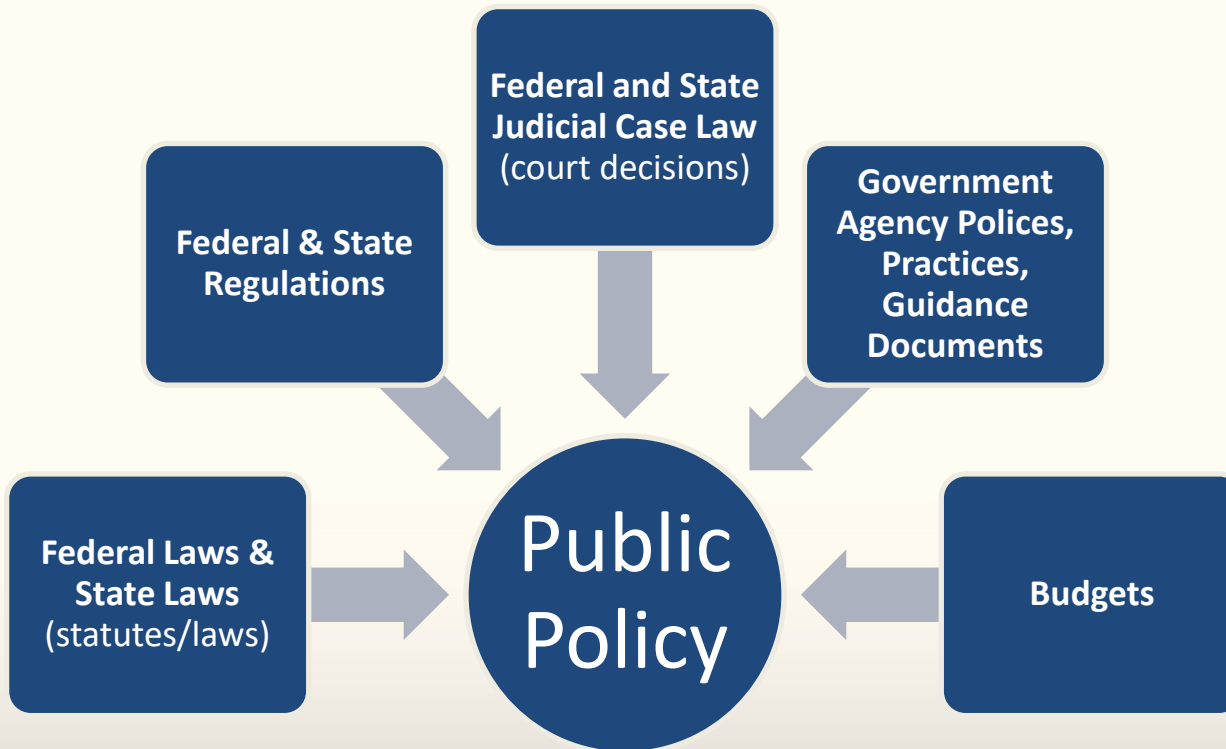
Dillon Rule: In other states, a city or county must obtain permission from the state legislature if it wishes to pass a law or ordinance which is not specifically permitted under existing state legislation.

The National League of Cities (NLC) identifies 31 Dillon's Rule states, 10 home rule states, 8 states that apply Dillon's Rule only to certain municipalities, and one state (Florida) that applies home rule to everything except taxation.



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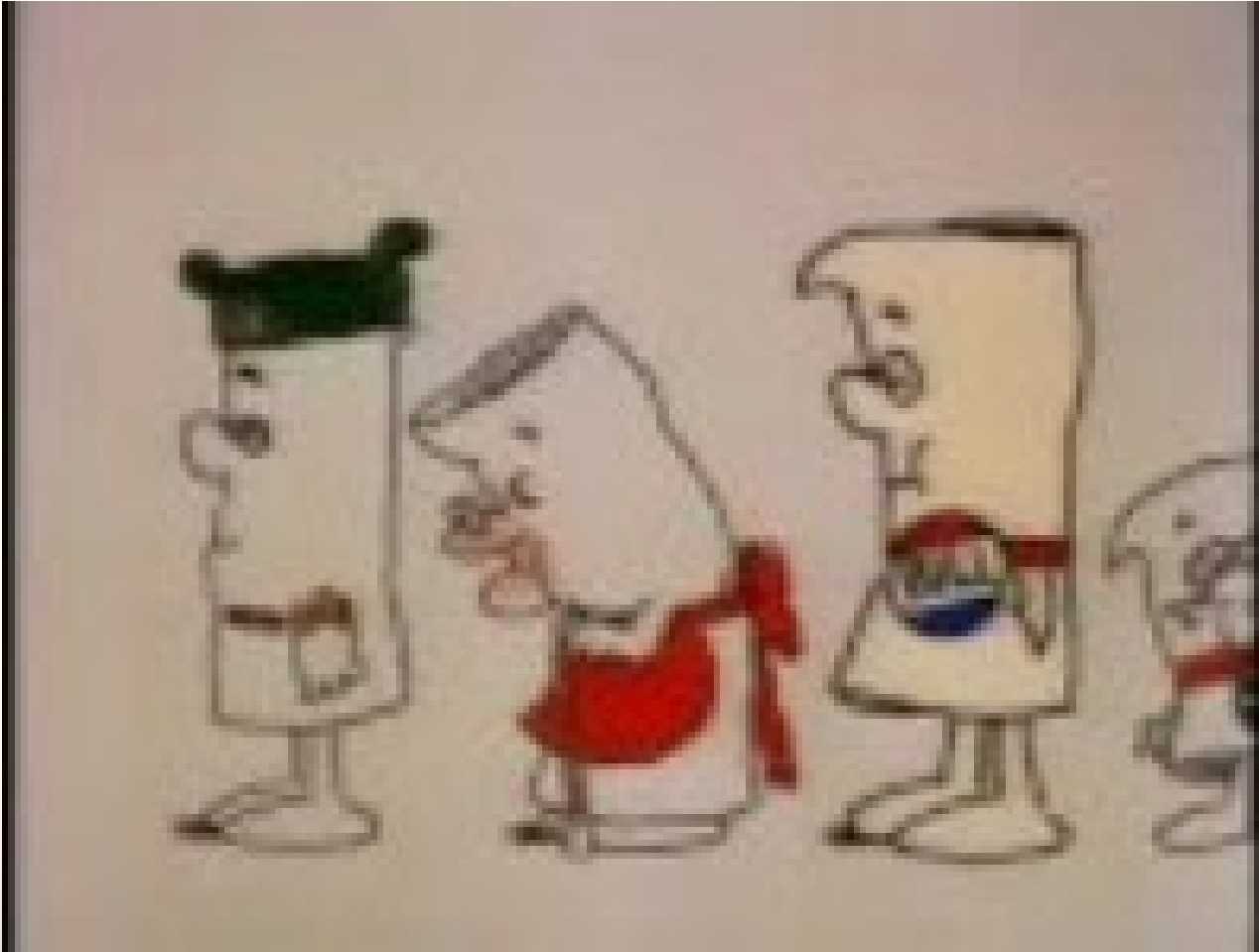
Public Policy





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School House Rocks





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Laws & Legislative Process

Laws tend to set overall expectations or standards.

Federal laws are contained in the United States Code (U.S.C.).

In Virginia, state laws are found within the Code of Virginia.

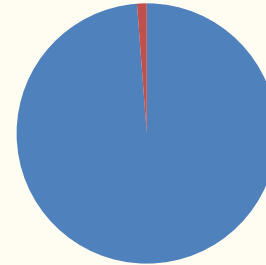
Legislation is passed by the Legislative Branch and signed into law by the Executive Branch.

Veto authorities and processes vary. In some states, governors have “line-item veto” authority, which means they can veto pieces or parts of a legislation.



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In Congress:



Bills

- Introduced
- Enacted

- In 2019, they introduced 8,820 bills and joint resolutions, 23 percent more than they did in 2017, the first year of the prior Congress.
- About 2 in 3 of the measures introduced in 2019 were in the House.
- Still, the total of 105 laws enacted was low, and only exceeded recently by 72 new laws in 2013 and 81 in 2011.
- Most federal bills never make it past committee.

Teitelbaum, M. (2020).; GovTrack. (Undated).

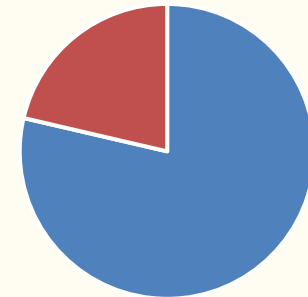


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2022 Virginia Session

- Long Session (60 days)
- 3,143 bills introduced
- 807 were ultimately approved
 - A portion of these are “commending” or “celebrating the life of” resolutions
- Of those that didn’t pass:
 - 1,163 failed at some point in the process
 - 33 were vetoed by the Governor

Bills



■ Introduced ■ Enacted

LIS. (Undated).



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Regulations

The United States has the Code of Federal Regulations (CFR).

- The promulgation of regulations follows the Administrative Procedure Act.

Virginia has the Virginia Administrative Code (VAC).

- The promulgation of regulations follows the Administrative Process Act.

Regulations flush out details as derived from overarching laws.

- In other words, they provide more specific requirements than legislation tends to include.

Regulations have the force of law, but ultimately when there are conflicts, laws or statutes trump regulations.

Standard Regulatory Process

Initial Notice:

- In US, Advanced Notice of Proposed Rulemaking
- In Virginia, Notice of Intended Regulatory Action (NOIRA)

Proposed Rule:

- In US, Notice of Proposed Rulemaking (NPRM)
- In Virginia, Proposed Regulation

Final Rule:

- In US and Virginia, Final Rule

There are public comment opportunities throughout. Sometimes agencies host public hearings or pull together stakeholders for meetings to develop regulations.

Reviews by other agencies and administration approvals are required.



Alternative Regulatory Processes

Sometimes there are other avenues for regulations. In Virginia, this includes:

Emergency Regulations: need to take effect quickly (e.g., COVID)

Exempt Regulations: regulatory changes are required by law and agencies do not have discretion

Fast-Track Regulations: non-controversial



Hierarchy

- 1 { • Federal Laws/Statutes
- 2 { • Federal Regulations
- 3 { • State Laws/Statutes
- 4 { • State Regulations



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Guidance & Guidance Process

Usually elaborates on existing laws or regulations

Are not generally enforceable

- Enforcement stems from laws and regulations

Process to issue guidance documents can vary

- In Virginia, agencies must solicit public comment for 30 days



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Budgets & Appropriations

Federal Budget

- The U.S. federal government is intended to operate with an annual budget.
- Federal Fiscal Year (FFY): October 1 – September 30
- For most of the last 15+ years, funding has been mostly through short-term continuing resolutions (CRs).

State Budget

- State budgeting cycles vary.
- Virginia operates on a two-year or a biennial budget, known as the Appropriation Act.
- Virginia State Fiscal Year (SFY): July 1 – June 30

Unlike the federal budget, most states cannot run a deficit and must enact balanced budgets.

- As a result, states generally have three primary actions they can take during a fiscal crisis: they can draw down available reserves, they can cut expenditures, or they can raise taxes (Rueben & Randall, 2017).



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Budget Process

Executive Branch sets expectations for agencies (e.g., priorities, cuts/increases, technical changes)

President/Governor proposes budget to legislature

Legislature takes up the proposed budget

Legislature makes changes to the proposed budget and votes on budget

President/Governor reviews the budget passed by the legislature and vetoes or signs/enacts the budget



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Contracts

Contracts between a government entity and a private entity may also be in place when public funds are expended on a good or service.

Contracting must follow the Virginia Public Procurement Act.

Contracts and documents incorporated by reference into contracts are enforceable through contract law.



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Virginia Public Guardian and Conservator Program Policies

Laws:

- 64.2-2000 et seq.
- 51.5-149 et seq.

Regulations:

- 22VAC30-70

Appropriation:

- Items 315 B and 319 A of the 2024 Appropriation Act

Guidance:

- Pending

Contracts:

- In Place



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Public Policy Ideas Come From:

Higher Authorities

- State laws or regulations that could be required by federal law, for example

Elected Officials &
Legislators

Legislative Staff or
Committees

Government
Agencies

Special Interest,
Industry or Advocacy
Groups

Constituents



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Tools for Tracking State Policy

- [Virginia General Assembly](#)
 - General Information
- [Legislative Information Services \(LIS\)](#)
 - Legislative Process & Calendar, Legislation & Budget
- [Town Hall](#)
 - Regulations & Guidance Documents
 - Policy & Supervisory Board Meetings
 - “Sign-Up” Option for Notices
- [Commonwealth Calendar](#)
 - General Agency & Advisory Board Meetings



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Advocacy on the Council

1

- Council members are encouraged to focus on education and raising awareness about individuals living with brain injury and their needs and brain injury services.

2

- You may share copies of the Council's Annual Priorities Letter.

3

- If you speak or express opinion about a specific bill or budget item, you must be clearly acting as a member of the public and not as a member of the Council.

4

- No member, including the Chair of the Council or the Priorities Committee Chair, should represent the positions of the Council on a specific bill or budget item unless the Council has authorized a position related to a specific bill or budget item and directed that individual to represent them.



References

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