

State and Local Jail Financing: Statutory Review



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Board of Corrections (§ 53.1-2 et seq.)

- ❑ Board of Corrections Nine residents of the Commonwealth appointed by the Governor and confirmed by the General Assembly (four-year terms).
- ❑ Powers and Duties
 - ***To develop and establish program and fiscal standards and goals governing the operation of state, local and community correctional facilities and community correctional services;***
 - To ensure the development of long-range programs and plans for corrections services provided at the state and local levels;
 - ***To review and comment on all budgets and requests for appropriations for the Department prior to their submission to the Governor and on all applications for federal funds;***
 - To monitor the activities of the Department and its effectiveness in implementing the standards and goals of the Board;
 - To advise the Governor, Director and General Assembly on matters relating to corrections;
 - To make, adopt and promulgate such rules and regulations as may be necessary to carry out the provisions of this title and other laws of the Commonwealth administered by the Director or the Department; and
 - To ensure the development of programs to educate citizens and elicit public support for the activities of the Department.

Department of Corrections (§ 53.1-8 et seq.)

- Department of Corrections Supervises and manages the Department and its system of state correctional facilities.
 - Responsible to the ***Governor***.
 - Under the supervision of the Director, who is appointed by the Governor and confirmed by each house of the General Assembly.
 - The Department carries out management and supervisory powers in accordance with standards and goals of the ***Board***.
 - Implements the standards and goals of the Board as formulated for local and community correctional programs and facilities and lock-ups.

Commitment and Transfer of Prisoners

(§ 53.1-20)

- ❑ Persons convicted of felonies committed on or after January 1, 1995, and sentenced to the Department or sentenced to confinement in jail for a year or more shall be placed in the custody of the Department and received by the Director into the state corrections system within sixty days.
- ❑ If the Governor finds that the number of prisoners in state facilities poses a threat to public safety, it shall be within the discretion of the Director to determine the priority for receiving prisoners **into** the state corrections system from local correctional facilities.
- ❑ All felons sentenced to a period of incarceration and not placed in an adult state correctional facility shall serve their sentences in local correctional facilities.

Commitment and Transfer of Prisoners

(§ 53.1-21)

- ❑ The following limitations shall apply to the transfer of persons *into* the custody of the Department:
 - No person convicted of violating § 20-61 (Desertion or nonsupport of spouse or children) shall be committed or transferred to the custody of the Department.
 - No person who is convicted of any violation pursuant to Article 9 (§ 46.2-355.1 et seq.) of Chapter 3 of Title 46.2 (Habitual Offenders) shall be committed or transferred to the custody of the Department without the consent of the Director.
 - No person who is convicted of a misdemeanor or a felony and receives a jail sentence of twelve months or less shall be committed or transferred to the custody of the Department without the consent of the Director.
 - Beginning July 1, 1991, and subject to the provisions of 53.1-20, no person, whether convicted of a felony or misdemeanor, shall be transferred to the custody of the Department when the combined length of all sentences to be served totals two years or less, without the consent of the Director.
- ❑ **Temporary Transfers:** Any person accused of an offense, convicted of an offense and awaiting sentencing, or is a witness in any case and confined in a state or local correctional facility may be transferred by the Director to any other state or local correctional facility which he may designate.

Transfer of Prisoners (§ 53.1-79.1)

- The sheriff or superintendent of any jail may enter into an agreement with the sheriff or superintendent of any other jail in the Commonwealth to transfer and transport prisoners between the respective facilities, and to confine such prisoners, unless such transfer is otherwise prohibited by law.

Capital Cost Responsibilities



State and Local

“Capital Costs” Defined (§ 53.1-82.2)

“Capital costs” includes, but is not limited to, actual construction costs, costs of land acquisition, if the land purchased is used exclusively for siting a jail facility, architectural and engineering fees, and fixed equipment. “Capital costs” does not include administrative costs nor a financial advisor's, an investment banker's, or attorneys' fees incurred by local governments or, except in the case of minimum security facilities, loose equipment or furnishings.

Approval of Jail Projects (§ 53.1-82.1)

- The Board shall promulgate regulations requiring localities seeking approval of a jail project to (i) submit a community-based corrections plan and (ii) demonstrate that the project can be completed and operated in a cost-efficient manner. Such regulations shall require, at a minimum, the following:
 - That the request include an analysis of staffing needs and a six-year operating budget for the proposed facility;
 - That the request include a plan for development and implementation of pre-trial detention alternatives and post-disposition punishment alternatives on a systematic local and regional basis, which plan shall be reviewed, modified and approved by the Board with assistance from the Department of Criminal Justice Services; and
 - That the project be based on a locality- or region-specific jail population forecast, which shall include an analysis of the impact on the jail population of the alternatives identified pursuant to subdivision 2 of this section, and which forecast shall be reviewed by the Department of Criminal Justice Services.

- The Board shall approve no proposed jail project which does not conform to the regulations promulgated pursuant to this section.

Eligibility for State Reimbursement of 25% of Capital Costs (§ 53.1-80)

- Reimbursement for capital costs of a jail construction, enlargement or renovation:
 - City or county
 - Two cities or counties (or mix)
 - Any three or more cities and counties (or mix) which do not qualify for 50% reimbursement pursuant to § 53.1-81 or § 53.1-82.

Eligibility for State Reimbursement of 50% of Capital Costs (§ 53.1-81)

- ❑ Approval Required: The Board **MAY** authorize three or more cities or counties (or mix) to construct, enlarge or renovate a regional jail or enlarge or renovate an existing jail for the purposes of establishing a regional jail facility.
- ❑ Reimbursement for capital costs:
 - Three or more cities or counties (or mix) that establish a regional jail facility on or after Dec. 1, 1989.
 - ❑ However, for regional jail facilities established after Feb. 1, 1993, the cities or counties are not eligible for 50% reimbursement unless at least three localities were each operating a jail on Feb. 1, 1993.
 - Three or more cities or counties (or mix) that establish a regional jail facility on or before Jan. 31, 1993.
 - Two cities, counties, or towns (or mix) for any existing regional jail facility established before June 30, 1982.
 - Any two contiguous counties whose boundaries are not contiguous by land with the boundaries of any other county in the Commonwealth (Eastern Shore).

State Reimbursement for Cooperative Jailing; 50% of Capital Costs (§ 53.1-82)

- ❑ Cooperative jailing is the establishment of regional contracts for the detention and confinement of categories of offenders in single or regional jail facilities operated by the contracting jurisdictions.
- ❑ When such contracts are approved by the Board and, for the implementation of the contract, require the construction, enlargement or renovation of a regional jail facility or the enlargement or renovation of an existing jail, the Commonwealth shall reimburse each such locality its pro rata share, up to one-half, of the capital costs.
- ❑ Any agreement for cooperative jailing entered into on or after July 1, 1991, which requires the construction, enlargement or renovation of a single or regional jail facility shall require such counties, cities and towns to participate in the costs of the facility for a minimum period of thirty years.

Approval for all Jail Reimbursements

(§§ 53.1-80, 53.1-81, and 53.1-82)

- The Board shall promulgate regulations to include criteria which may be used to assess need and establish priorities, to serve as guidelines in evaluating requests for reimbursements.
- The Department shall apply such regulations in preparing requests for appropriations.
- No reimbursement shall be made until the plans, specifications, and need for additional personnel have been submitted to the Governor and approved by him.
- The Governor shall base his approval in part on the expected operating cost-efficiency of the interior design of the facility.

Method of Reimbursement (§ 53.1-82.2)

- ❑ The Department of Planning and Budget, after consulting with the Treasury Board, shall evaluate all proposed jail projects and make recommendations to the Governor regarding the method of reimbursement for inclusion in his biennial budget.
- ❑ The General Assembly shall have the sole authority to determine whether reimbursement will be made.

Budgeting Schedule for Reimbursement

(§ 53.1-82.3)

- ❑ Any city or county (or mix) requesting capital reimbursement shall, on or before March 1 biennially in the odd-numbered years, submit to the Governor a community-based corrections plan and specifications, including detailed cost estimates of any facility construction.
- ❑ On or before July 1 in the odd-numbered years, such localities shall also submit to the Governor the expected financing costs for any such facility construction. The Governor shall submit his recommendations for funding such projects as part of the budget bill on or before December 20 of the year immediately prior to the beginning of each regular session held in an even-numbered year of the General Assembly. Requests for appropriations of such funds shall be considered by the General Assembly only in even-numbered years.
- ❑ In the event that the state share of reimbursable costs of the jail facility is estimated to be less than or equal to \$1,000,000, such localities shall be exempt from submitting to the Governor, in a format prescribed for such purpose by the Department of the Treasury, the expected financing costs for any such facility construction, unless such localities seek reimbursement of financial costs associated with such facility construction.

Three Options for Reimbursement

(§ 53.1-82.2)

- ❑ By the State Treasurer out of funds appropriated to the DOC: One lump sum payment upon completion of project or two equal lump sum payments, the first at 50% completion the second upon completion.
- ❑ By the State Treasurer out of funds appropriated to the Treasury Board: Over a specified period of time through a contractual agreement entered by the Treasury Board and approved by the Governor.
- ❑ By the Virginia Public Building Authority: One lump sum, including the Commonwealth's share of the interest costs expended by the locality or regional authority for financing such project from 50% completion to final completion.

Capital Costs: Local Responsibilities (§ 53.1-87)

- In any instance in which a local correctional facility of a county, city or town is designated by the Board as the place where prisoners committed by the courts or other authorities of any other county, city or town shall be confined, any capital outlay expenses incurred for necessary repairs, improvements or additions to such facility, and all costs of maintenance of the facility chargeable to the localities, shall be borne ratably by the several counties, cities or towns using it.

Capital Costs: Local Responsibilities

- Default: What the State does not cover with either the 25% or 50% reimbursement is borne by the locality or localities (assuming no other public financing is secured).

Operational Cost Responsibilities



State and Local

Operational Costs: State Responsibilities for Regional Jails (§ 53.1-81)

- Localities may enter into agreements with the Department of Corrections for the Department to operate a regional jail or to pay the costs of maintenance, upkeep and other operational costs of the regional jail.
- Each city, county or town shall, however, bear the expense of local prisoners from such city, county or town. In such case, the Department shall receive such costs from the funds appropriated in the general appropriation act for criminal costs.

Operational Costs: State Responsibilities For Local Correctional Facilities (§ 53.1-83.1)

- Operational costs are listed in the Governor's biennial budget bill and include:
 - An amount for compensating localities for the cost of maintaining prisoners arrested on state warrants in local jails, regional jails and jail farms, at a specified rate per prisoner day;
 - An amount for maintaining convicted state felons in local correctional facilities, at a specified rate per felon day;
 - An amount to pay two-thirds of the salaries of medical and treatment personnel approved by the State Compensation Board; and
 - An amount to be set aside for unanticipated medical emergencies.

Operational Costs: State Responsibilities (§ 53.1-84)

- ❑ The Compensation Board shall apportion among local correctional facilities moneys appropriated in the general appropriation act for the purpose of financial assistance for the confinement of persons in local facilities in accordance with reports of prisoner days provided by the Department.
- ❑ The county or city receiving such funds or a combination of counties or cities or both receiving such funds on behalf of a regional facility shall pay therefrom the operating costs of its local adult correctional facilities and programs.

Operational Costs: State Responsibilities (§ 53.1-85)

- Each facility's apportionment pursuant to § 53.1-84 shall be paid by the Compensation Board to the responsible local governing body or fiscal agent of such facility in quarterly installments in the following amounts:
 - The number of state prisoner days registered by the facility in the preceding quarter times the specified rate per prisoner day;
 - The number of prisoner days registered for convicted state felons by the facility in the preceding quarter times the specified rate per felon day; and
 - One-fourth of the annual cost for salaries and fringe benefits for medical and treatment personnel approved by the Compensation Board.

Operational Costs: Local Responsibilities (§ 53.1-91)

- Each sheriff or jail superintendent shall collect from the counties, cities and towns of the Commonwealth, and from any other state or country for which any prisoner is held in such jail, the reasonable costs of guarding, feeding, clothing, caring for and furnishing medicine and medical attention for prisoners held for such county, city, town, state or country.

Questions?



2004 Acts of Assembly: Chapter 861

- § 1. "That on or after July 1, 2004, no new prison financing, site selection, acquisition, construction or maintenance, leasing, management or operation of any new prison facility shall be commenced unless based upon written analysis of such components, demonstrating a benefit to the Department of Corrections, including an analysis of the costs and benefits of utilizing the Corrections Private Management Act (§ 53.1-261 et seq.) or the Public-Private Education Facilities and Infrastructure Act (§ 56-575.1 et seq.) of the Code of Virginia, or other means as appropriate."

Private Operation of Jails (§ 53.1-71.1 et seq.)

- ❑ Regional jail authorities are also authorized to contract for the private operation of regional jail facilities (§ 53.1-71.1 et seq.).
- ❑ Capital reimbursement the same as for other regional jails.
- ❑ Per-diem rate for care and custody of prisoners not to exceed the cost ordinarily paid to a locality.
- ❑ No contract for services may be made unless there is an appropriation that is law.

Reimbursement for Federal Prisoners

(§ 53.1-79 and § 53.1-90)

- ❑ The sheriff of any county or city or jail superintendent of any regional jail may receive into his jail any person committed thereto under the authority of the United States.
- ❑ The sheriff or superintendent shall collect a fee from the U.S. government for all federal prisoners.