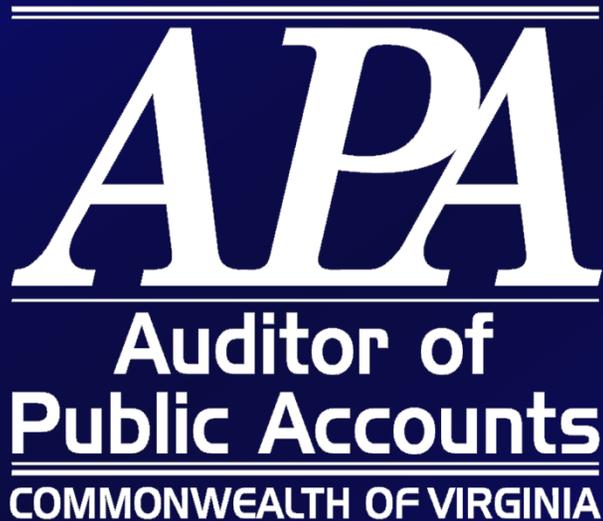


# Local Ordinances and the Funding of Courts



April Gunn, CPA, CISA  
Senate Finance  
Committee  
October 20, 2011

# Study Mandate

The Appropriation Act 890 Item 1.2, 2-E required the Auditor of Public Accounts to audit the extent to which localities are enforcing local ordinances and collecting fines relating to those ordinances, which parallel state statutes and related penalties for the same offense.

# Summary

The Commonwealth's funding of its Court System is a complicated maze of state and local tax revenues and fines and costs with little connection to service delivery.

Similarly, the division of responsibility for expenses between the Commonwealth and localities comes more from historical tradition than from funding sources or accountability.

# Summary

In the fiscal year ended June 30, 2010, Virginia's Courts collected \$95 million of fines and costs related to local ordinances that parallel state statutes.

When localities adopt ordinances that parallel state statutes and citizens pay fines and costs, localities deposit these collections in their general funds without any commitment to fund their share of court operations or education.

In contrast, Commonwealth fines are placed into the Literary fund.

# Why can localities do this?

- Located in over 200 Code sections
- “Similar Ordinance” language
- Numerous Code changes with NO review of funding implications
- Ordinances easily, if not automatically, adopted by localities
- Commonwealth’s Attorney can amend a state statute violation to an equivalent local ordinance

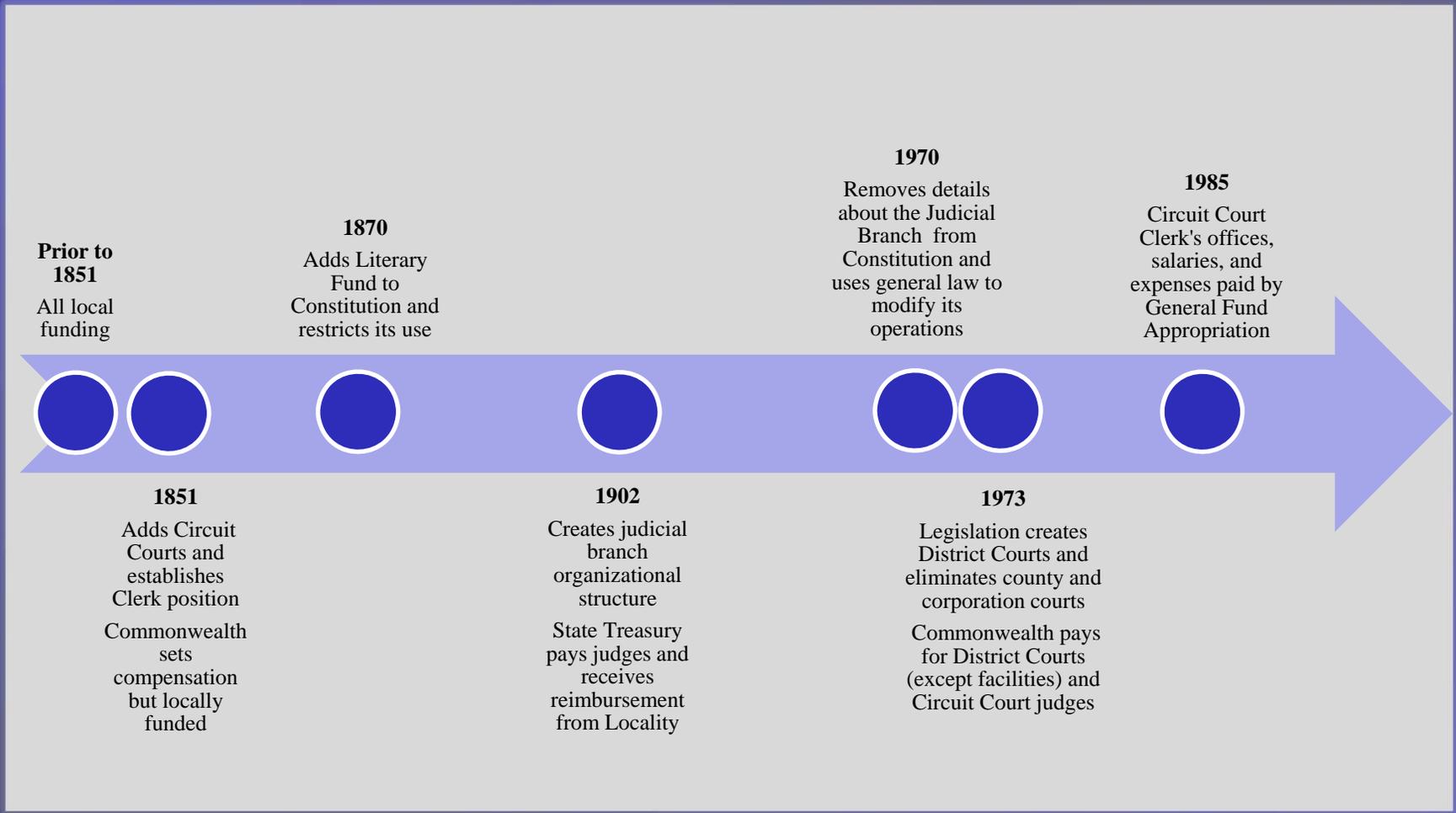
# How much is local?

## Fines and Costs Assessed Fiscal Year 2010

Statute	Commonwealth		Local		Total
Alcoholic Beverage Control Act	\$ 2,306,731		\$ 612,787		\$ 2,919,518
Crimes and Offenses Generally	39,931,832		8,541,402		48,473,234
Criminal Procedure	3,707,589		36,975		3,744,564
Game, Inland Fisheries, and Boating	1,191,929		24,432		1,216,361
Highways, Bridges, and Ferries	6,363,732		325,682		6,689,414
Motor Vehicles	95,602,163		142,712,713		238,314,876
Other	1,136,371		254,896		1,391,267
<b>Total</b>	\$ 150,240,347	49%	\$ 152,508,887	51%	\$ 302,749,234

Source: Office of the Executive Secretary of the Supreme Court of Virginia's Case Management System

# History



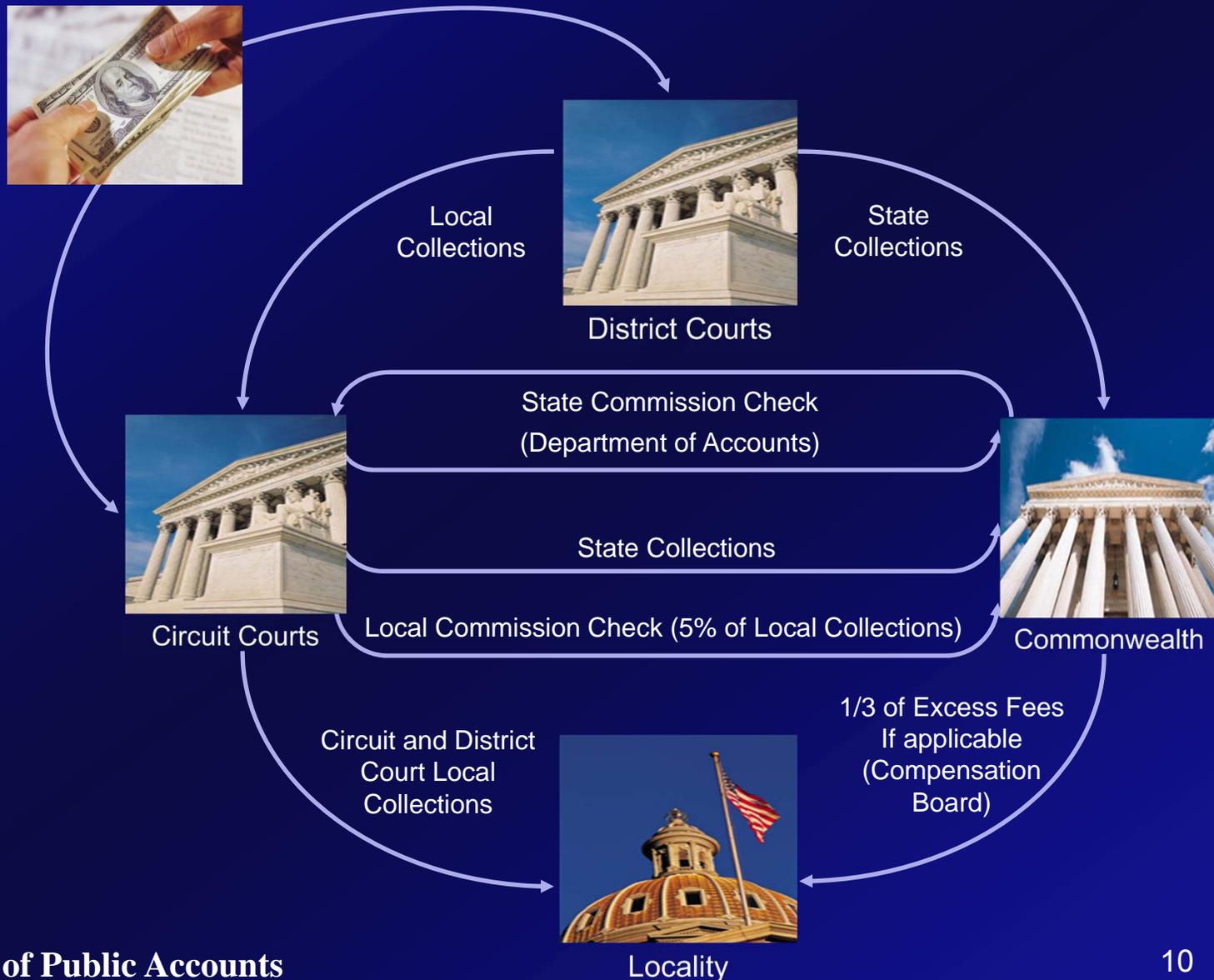
# Current Funding Practices

- Majority of funding from the Commonwealth's General Fund
- Localities fund courthouse construction and maintenance, and also use these buildings for other purposes
- Localities often choose to supplement state funding
  - Courtroom security
  - Staffing levels in Circuit Courts

# Overall View

<b>Fiscal Year 2010</b>			
	<b>Circuit Courts</b>	<b>District Courts</b>	<b>Total</b>
<b>State collections</b>	\$ 362,712,354	\$ 182,686,702	\$ 545,399,056
<b>Clerk's fees</b>	48,476,003	-	48,476,003
<b>Commissions on state</b>	14,930,451	-	14,930,451
<b>Less excess fees</b>	<u>(10,768,378)</u>	<u>-</u>	<u>(10,768,378)</u>
<b>Total state collections</b>	415,350,430	182,686,702	598,037,132
<b>Total state expenses</b>	<u>( 115,746,275)</u>	<u>( 153,193,519)</u>	<u>( 268,939,794)</u>
<b>Net state collections</b>	\$ 299,604,155	\$ 29,493,183	\$ 329,097,338
<b>Local and town collections</b>	\$ 166,403,515	\$ 95,060,312	\$ 261,463,827
<b>Plus excess fees</b>	<u>10,768,378</u>	<u>-</u>	<u>10,768,378</u>
<b>Total local and town collections</b>	177,171,893	95,060,312	272,232,205
<b>Total local expenses</b>	<u>( 52,743,363)</u>	<u>( 135,794,344)</u>	<u>( 188,537,707)</u>
<b>Net local and town collections</b>	\$ 124,428,530	(\$ 40,734,032)	\$ 83,694,498

# Overall Collection View



# Key Issues

- Should localities be able to adopt ordinances and if so, should the corresponding revenue be restricted?
- Should the General Assembly require a review of any language containing ‘similar ordinance’ by the Senate and House Finance committees?
- Should the Commonwealth and localities continue to share expenses?

# Key Issues

- With the elimination of town courts, should towns still have the ability to collect fines and costs?
- Should the practice of commissions and excess fees continue?
- Should the Commonwealth continue to fund a portion of Circuit Courts relating to recordation of land records?
- If funding for court services is altered, where should the administrative responsibility for this funding lie?

# Relevant Reports

- *Collections and Costs of Operating the Circuit and District Courts by Locality Report (Annual)*
  - <http://www.apa.virginia.gov/reports.cfm?departmentID=1049&method=reports>
- *Local Ordinances and the Funding of Courts*
  - [http://www.apa.virginia.gov/reports/LocalOrdinance\\_Sept.11.pdf](http://www.apa.virginia.gov/reports/LocalOrdinance_Sept.11.pdf)
- *Review of Virginia Courts Management of Unpaid Fines and Costs*
  - <http://www.apa.virginia.gov/reports/fines00.pdf>

# Future Reports

- *Follow-Up to our Review of Virginia Courts Management of Unpaid Fines and Costs*

# Contact

**Walter Kucharski, CPA**

Auditor of Public Accounts

804.225.3350

[Walter.kucharski@apa.virginia.gov](mailto:Walter.kucharski@apa.virginia.gov)

**April C.V. Gunn, CPA, CISA**

Director

804.225.3350

[april.gunn@apa.virginia.gov](mailto:april.gunn@apa.virginia.gov)