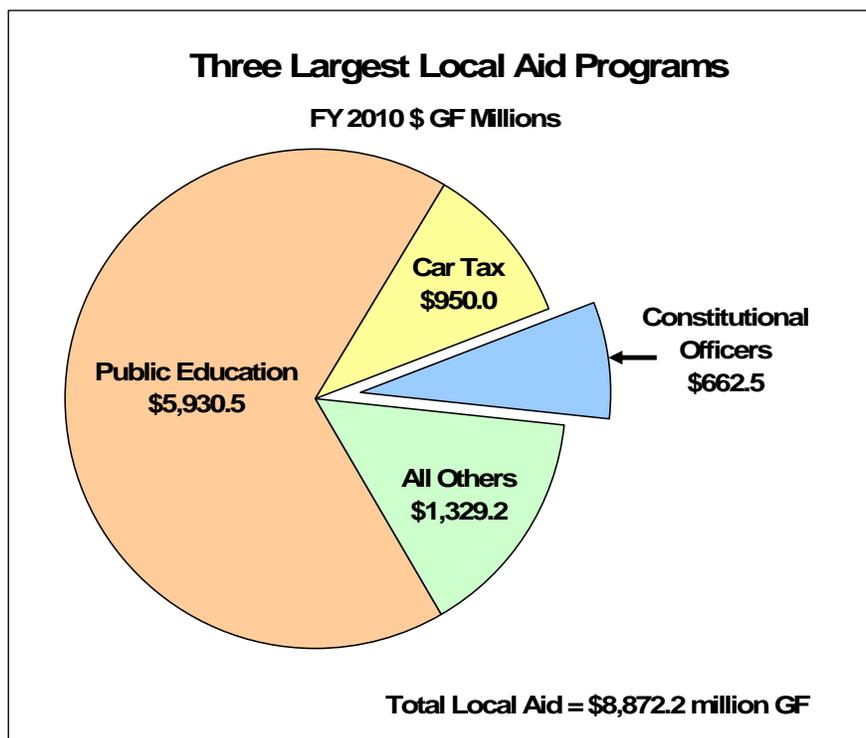


Constitutional Officers have a long history

- State assistance for locally-elected constitutional officers comprises the third largest local aid program in the Commonwealth's budget.



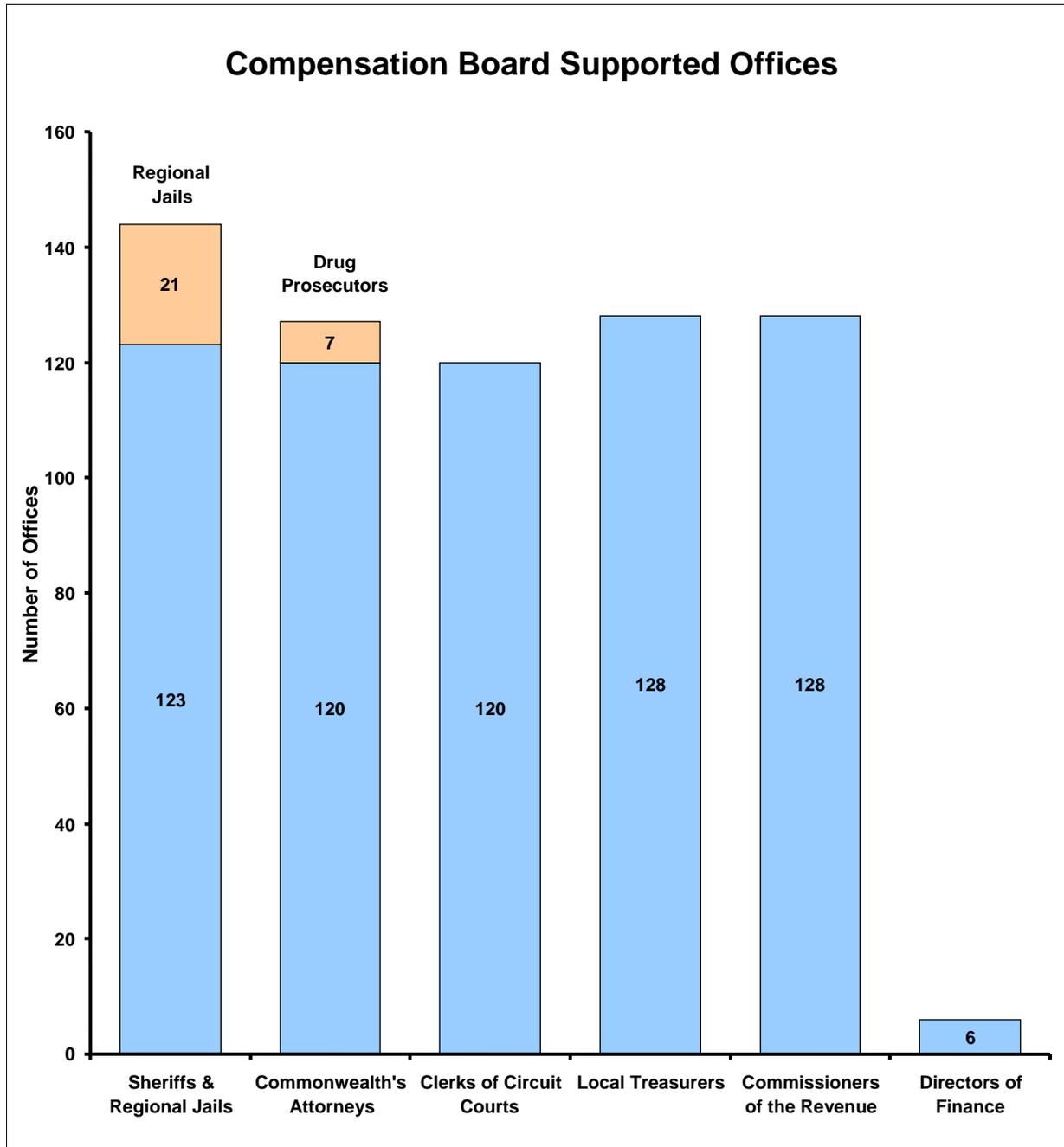
- The *Constitution of Virginia* sets out the five locally-elected officials commonly referred to as “constitutional” officers.
 - Sheriffs,
 - Commonwealth's Attorneys,
 - Clerks – Often called “Circuit Court Clerks”
 - Commissioners of the Revenue, and
 - Treasurers.

Constitutional Officers have a long history

- Three unelected offices are included among the “constitutional officers” as extensions of these five:
 - Sheriff → Regional Jail Officers
 - Treasurer → Directors of Finance
 - Commonwealth’s Attorney → Regional Drug Prosecutors.
- Locally-elected constitutional officers have a long history in Virginia, dating back to the first constitution of 1776.
 - In the 19th century there were thirteen or more locally-elected constitutional officers, including:
 - County Clerk,
 - Circuit Court Clerk,
 - Constable,
 - Commissioner of the Roads,
 - Superintendent of the Poor.
- The current five locally-elected constitutional officers date to the constitution of 1902, and its subsequent amendments.
- The duties of the County Clerks and Circuit Court Clerks were merged in the 1971 constitutional revisions.

Constitutional Officers have a long history

- At present there are 653 locally-elected constitutional officers and related offices, with over 16,300 FTE Compensation Board – approved employees.



Reform of Constitutional Officers

- Reform of the constitutional officer system also has a long history in the Commonwealth.
- The 1901 constitutional debates were heavily influenced by the late 19th century movement to professionalize and depoliticize the civil service.
 - Elimination of most elected constitutional officers in favor of professional staff was debated.
 - Resulted in the current five locally-elected officers.
- Creation of the Compensation Board in 1934 was primarily intended to standardize funding and services.
 - The Compensation Board established a base budget for each office.
 - If local fees were insufficient to fund this base budget, the Compensation Board covered the deficiency.
- Today, most fees of office are deposited into the Commonwealth's General Fund.
 - The Compensation Board establishes base budgets, the Commonwealth's portion of which is funded from the General Fund.
 - Localities may elect to supplement the Compensation Board-approved budget.
 - Three localities have chosen for their clerks not to participate in the Compensation Board system and retain all local fees.

Reform of Constitutional Officers

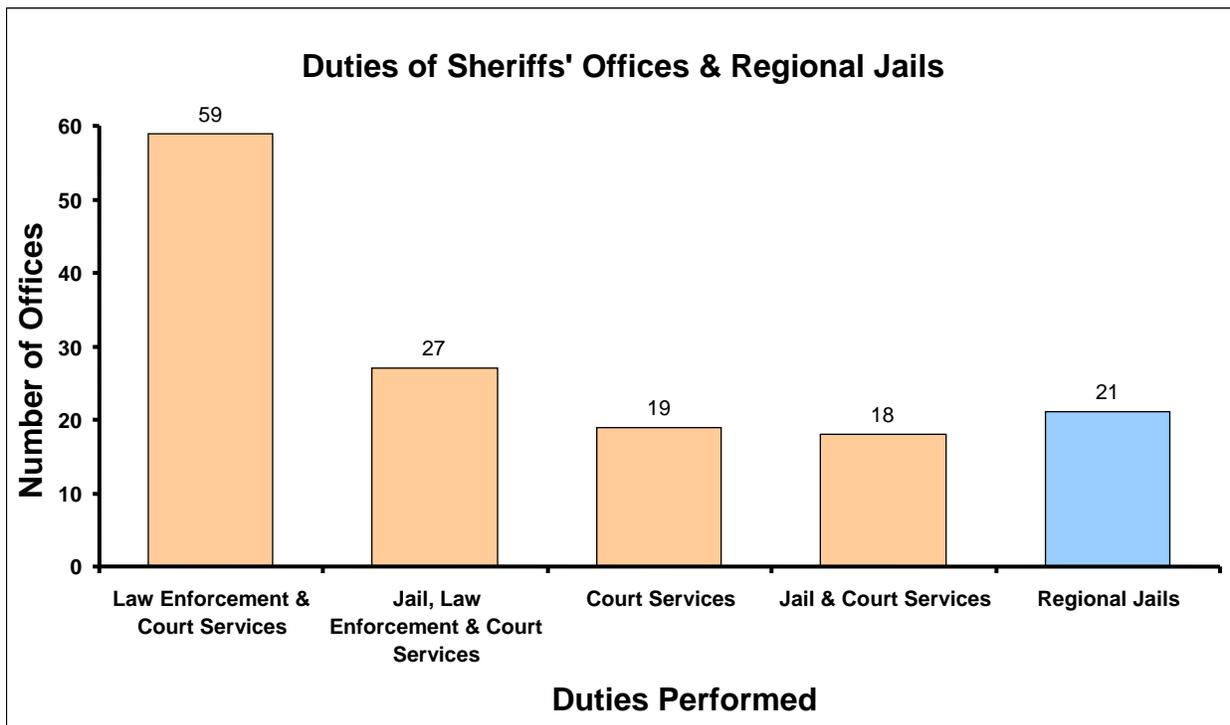
- The 1971 Constitution provides for the current five locally-elected constitutional officers.
 - The constitution allows the General Assembly to create other officers, or provide for other selection methods.
 - Changes are effective only after a local referendum.
 - By general law, localities may elect to have an appointed Director of Finance in place of the elected Treasurer and Commissioner of the Revenue.
- The 1990 JLARC reports on constitutional officers funding and staffing recommended:
 - Adoption of staffing standards for each office;
 - Categorization of duties into local, state, and shared activities, with state funding based on these categories;
 - Transformation of state funding to a block grant; and
 - Legislation to implement these recommendations was rejected by the General Assembly.
- The Compensation Board adopted staffing standards for each office in the 1990's.

Duties of the five constitutional officers

- The duties of each of the five locally-elected constitutional officer's duties are set out in the *Code of Virginia* and can be grouped into broad categories.

Sheriffs

- An individual sheriff's office may perform some or all of four types of duties, depending on the existence of local police departments and regional jails:
 - Law enforcement,
 - Jail operation,
 - Courtroom security, and
 - Service of process.



Duties of the five constitutional officers

Commonwealth's Attorneys

- Prosecute violations of state law and local ordinances in district and circuit courts, and
- Provide legal advice to local government.

Clerks

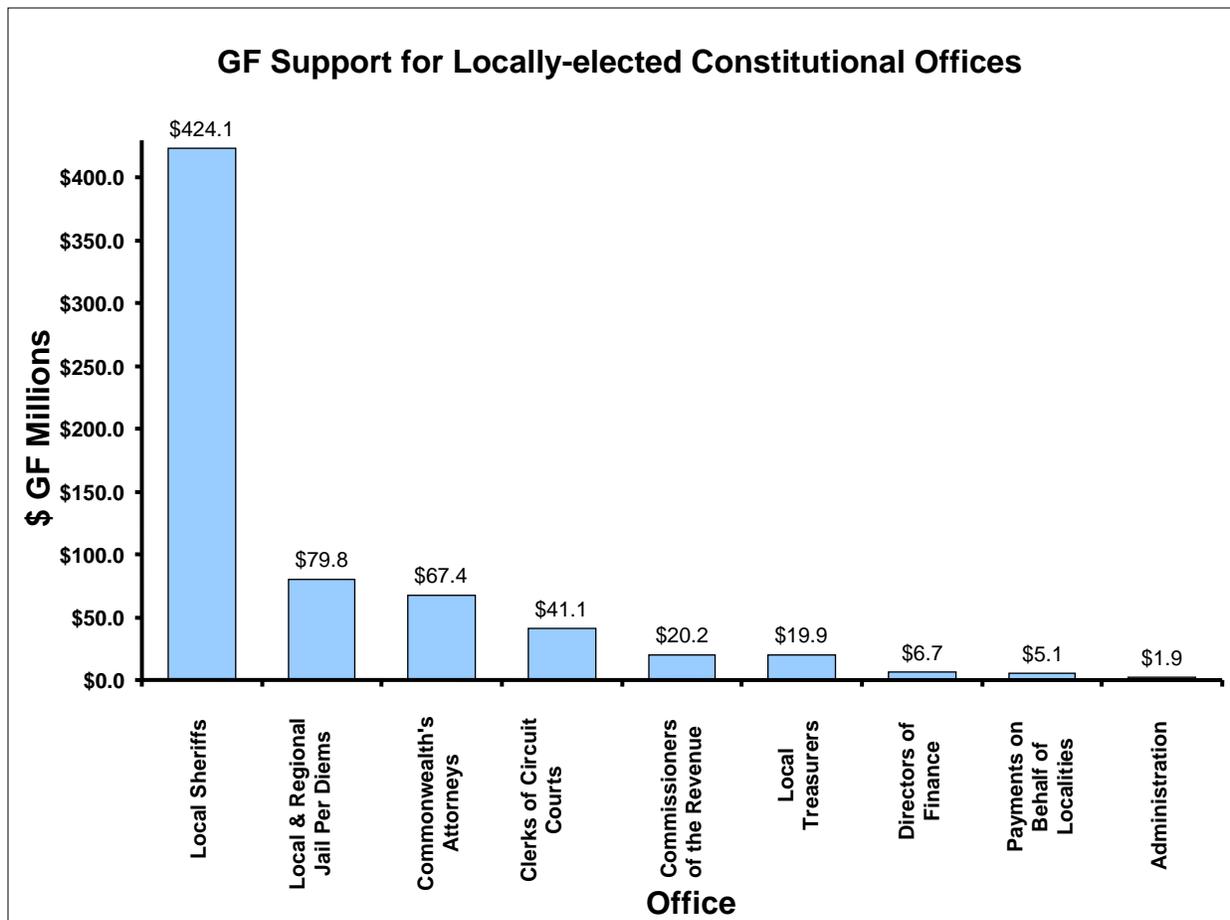
- Maintenance of records in civil and criminal cases in the Circuit Courts,
- Maintenance of local land and property records,
- Administration of wills and estates, and
- Maintenance of certain state and local business records and licenses.

Commissioners of the Revenue, Treasurers, and Directors of Finance

Office	Local								State Income Tax
	Taxes			Revenues				Financial Advice	
	Real Estate	Personal Property	Other	Collection	Custody	Accounting	Disbursement		
Commissioners of the Revenue	✓	✓	✓					✓	✓
Treasurers				✓	✓	✓	✓	✓	✓
Directors of Finance	✓	✓	✓	✓	✓	✓	✓	✓	

State funding of constitutional officers

- State funding for constitutional officers is administered by the three-member State Compensation Board.
 - Chairman -- appointed by the Governor.
 - Tax Commissioner -- ex-officio.
 - Auditor of Public Accounts -- ex-officio.
- In FY 2010 the Compensation Board budget totals just over \$666 million GF.

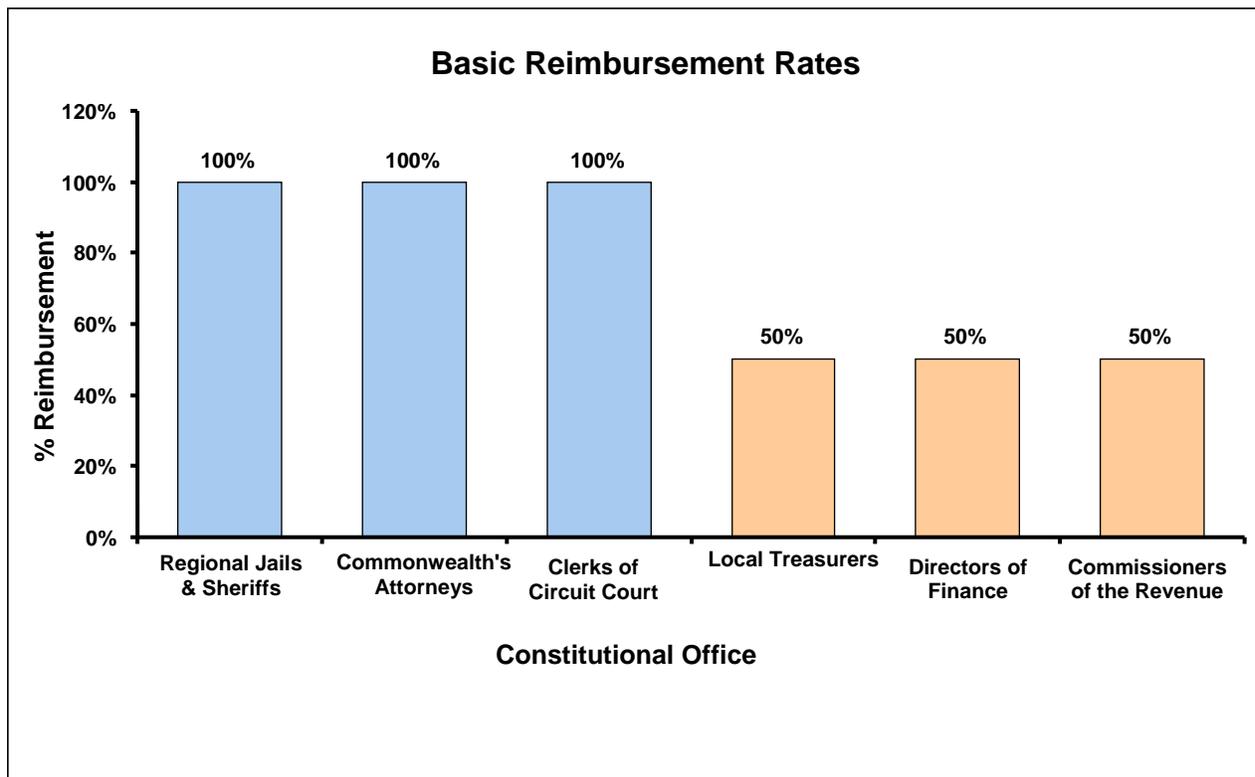


State funding of constitutional officers

- State support for constitutional officers is based on a budget and reimbursement system.
 - Local officers submit requests to the Compensation Board.
 - The Compensation Board approves a base budget for each officer which includes both the Commonwealth's and locality's funding.
 - The Compensation Board reimburses local governments for expenses incurred, up to the limit of the approved budget.
- The Compensation Board provides quarterly reimbursements for per diem payments for prisoners in local and regional jails.
- Budget shortfalls in the 1990s and 2000s resulted in numerous restrictions on state funding of constitutional officers, but the underlying system remains unchanged.
- Although the *Code of Virginia* allows for reimbursement for mileage, office expenses, and equipment, funding for these items was virtually eliminated during budget reductions in the 1990s and early 2000s.
- At this time, Compensation Board-approved budgets are essentially limited to salaries, with related reimbursements for retirement and life insurance premiums.

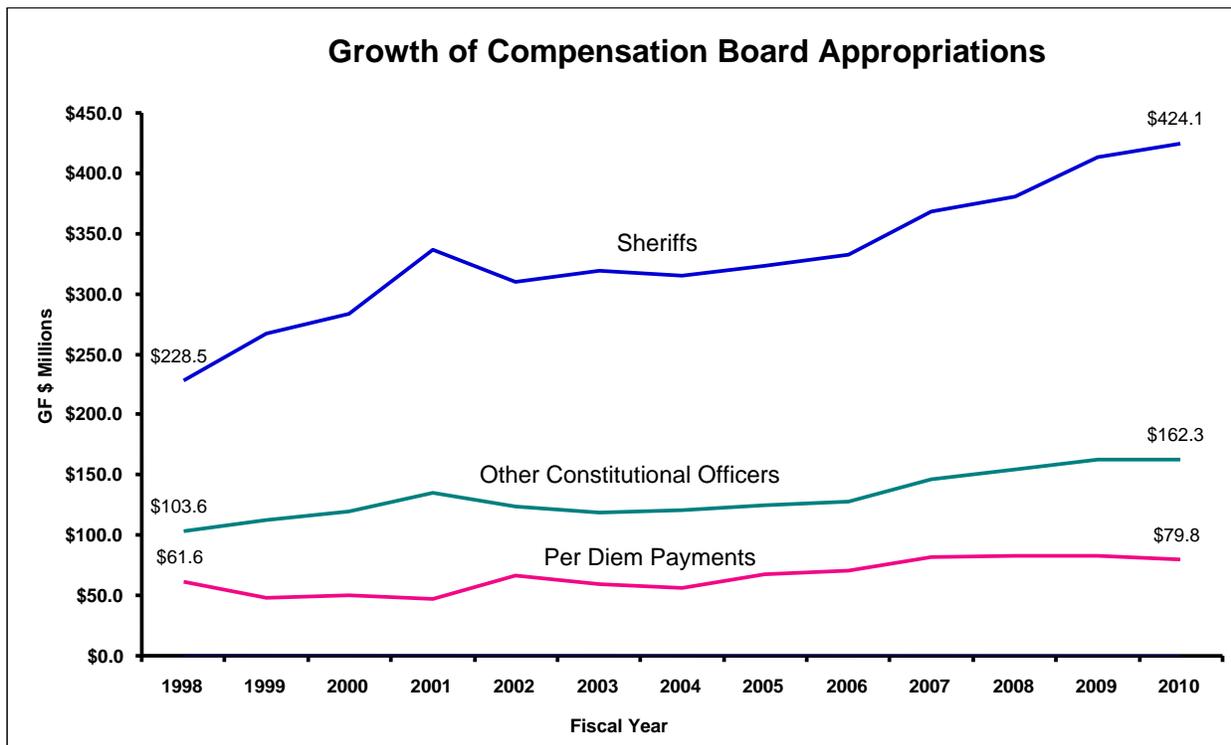
State funding of constitutional officers

- The respective state and local shares are established in the *Code of Virginia*.
 - The origin of these shares is lost in legislative history.
 - They may represent an approximation of the relative importance of each office at a point in the past, according to some broad criteria.
 - The respective state and local shares **do not** represent the state versus local nature of the duties performed by each office.



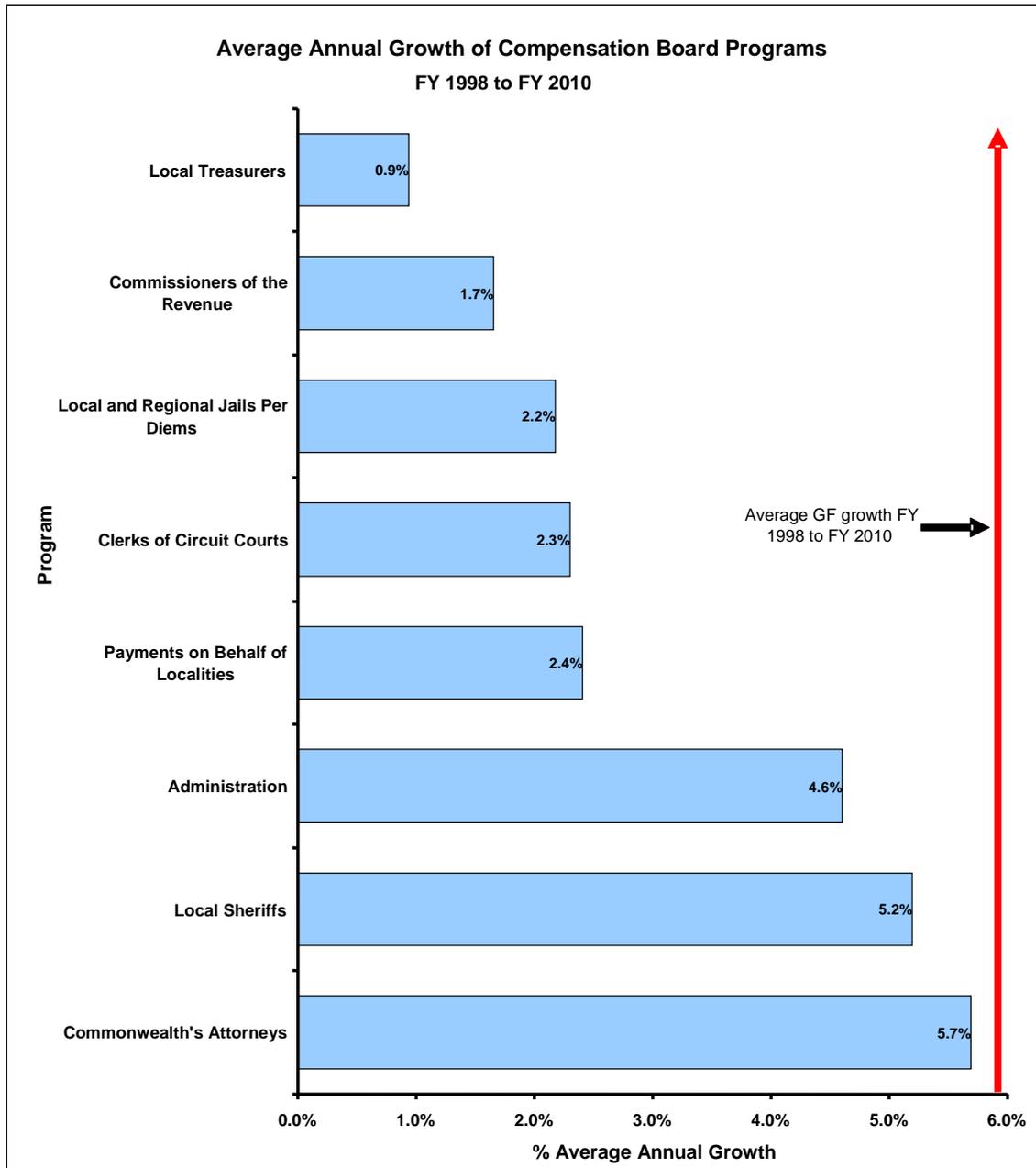
State funding of constitutional officers

- Overall state funding for constitutional officers has increased over \$268 million GF since FY 1998.
 - Over \$193 million GF of this growth occurred in funding for local sheriffs and regional jails.
 - Over \$32 million GF results from the phase-in of the Senate's initiative to fully fund the staffing standards for Commonwealth's Attorneys.
 - Over \$18 million GF of the growth is for per diem payments for prisoners in local and regional jails, which reflect increases in inmate population.



State funding of constitutional officers

- This overall growth in state funding for constitutional officers reflects an average annual growth rate of 4.4 percent – less than the average of 5.8 percent for the general fund.



State funding of constitutional officers

- The average annual percentage growth of 4.6 percent for the Compensation Board's administrative activities reflects an increase of \$2.5 million GF for additional administrative functions mandated by the General Assembly:
 - Coordination between jails and the Statewide Automated Victim Notification Program (SAVIN),
 - Coordination between jails and the Virginia Sex Offender Registry,
 - Local Inmate Data System (LIDS),
 - Annual Jail Cost Report, and
 - DNA Tracking System.

Constitutional officers and the revenue shortfall

- The budgets of constitutional officers have been reduced in all of the state budget reductions of the past twenty years – including 2008.
- 2008-2010 biennium reductions totaling \$13.8 million GF include:

<u>GF Savings Action</u>	<u>\$ Millions</u>
Administrative efficiencies (Incl. Oct. '08)	\$ 0.3
90 Day Vacancy Savings/ Transfer restrictions	7.0
Remove Exemption from Overhead Recovery	2.5
Cut reimbursements for Retiree Health Credit premiums by 50%	0.8
Cut payments for Liability Insurance and Bond Premiums by 50%	<u>3.2</u>
	\$13.8

- Across the board reductions could yield large general fund savings, but would result in service reductions or increases in local costs.
- Implementation of the block grant approach recommended in the 1990 JLARC report could yield substantial, long-term general fund savings. This block grant could be:
 - Formula driven,
 - Based on state versus local nature of activities, and
 - Based on a local ability to pay factor, similar to that used for public education.

Constitutional officers and the revenue shortfall

- Considerations included in the 1990 JLARC report about the block grant approach include:
 - Disposition of local fees of office should be taken into account, and
 - Administrative savings from review and reimbursement would be offset by costs associated with administration of the block grant.

- Other factors that should be considered include:
 - As with across-the-board reductions, general fund savings could result in service reductions or increases in local costs, and
 - The JLARC report is now over 18 years old and may not reflect current practice.

- Actual, long-term savings to both the state and local governments might be achieved through a restructuring of the constitutional officer system in such areas as:
 - Circuit court administration,
 - Local financial administration,
 - State income tax processing,
 - Shared services among multiple localities, as is done with regional jails, or
 - Other options.
 - No modern studies have been commissioned to investigate the possibilities.

Conclusions

- Locally elected constitutional officers have a long history in Virginia.
- State assistance for locally-elected constitutional officers comprises the third largest local aid program in the Commonwealth's budget.
- State funding of locally-elected constitutional officers is administered by the Compensation Board.
- Options exist for general fund savings, with variable impacts on local governments and service levels.
- Implementation of JLARC's 1990 study recommendations could be considered.
- Long-term state and local savings might result from a comprehensive review of the constitutional officer system.