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## SENATE BILL NO. 1386

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Finance)

(Patron Prior to Substitute—Senator Stolle)

Senate Amendments in [ ] — February 6, 2009

A *BILL to amend and reenact §§ 53.1-71.6, 53.1-81, 53.1-82, and 53.1-95.19 of the Code of Virginia and to repeal §§ 53.1-80, 53.1-82.2, and 53.1-82.3 of the Code of Virginia, relating to state reimbursement for local and regional jail construction.*

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

**1. That §§ 53.1-71.6, 53.1-81, 53.1-82, and 53.1-95.19 of the Code of Virginia are amended and reenacted as follows:**

§ 53.1-71.6. State reimbursement to localities for care and custody costs.

A. Reimbursement to participating localities for the cost of construction shall be made pursuant to Article 3 (§ 53.1-80 et seq.) of Chapter 3 of Title 53.1.

B. The manner of state payment to the localities for the care and custody costs at the facility of persons accused or convicted of any offense against the laws of the Commonwealth shall be as provided in the general appropriation act. Such payments shall include only the reasonable costs of guarding and providing necessary housing, maintenance, administrative expenses, food, clothing, medicine and medical attention for such prisoners. However, in no event shall the payment to the localities, when calculated on a per diem per prisoner basis, exceed the total cost ordinarily paid by the Commonwealth to a locality for prisoner care and custody expenses, when calculated on a per diem per prisoner basis.

§ 53.1-81. Construction and operation of regional jail facilities; agreements with Department.

A. Three or more cities or counties, or any combination thereof, are authorized, pursuant to approval of the Board, to construct, enlarge or renovate a regional jail facility or to enlarge or renovate an existing jail for the purpose of establishing a regional jail facility. In addition, (i) any regional jail facilities established by three or more cities, counties or towns, or any combination thereof, on or before January 31, 1993, (ii) any existing regional jail facilities established by only two cities, counties or towns on or before June 30, 1982, and (iii) any regional jail facilities established by only two contiguous counties whose boundaries are not contiguous by land with the boundaries of any other county in the Commonwealth, may participate under the provisions of this section. ~~On and after December 1, 1989, subject to the provisions of § 53.1-82.2, the Commonwealth shall reimburse each such locality its pro rata share up to one-half of the capital costs, as defined in § 53.1-82.2, of such construction, enlargement or renovation in accordance with the provisions of this section. However, regional jails created by any combination of three or more cities or counties on or after February 1, 1993, shall not be eligible for such reimbursement unless at least three of the participating localities of such combination were each operating a jail on February 1, 1993. 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 such reimbursement and to ensure the fair and equitable distribution of state funds provided for such purpose. The Department shall apply such regulations in preparing requests for appropriations. No such reimbursement shall be had unless the plans and specifications, including the need for additional personnel, thereof have been submitted to the Governor and the jail project has been approved by him. The Governor shall base his approval in part on the expected operating cost-efficiency of the interior design of the facility. Such reimbursement shall be paid subject to the provisions of § 53.1-82.2.~~

Such counties, cities, towns, or combination thereof may enter into agreements with the Department of Corrections for the Department to operate such jail or to pay the costs of maintenance, upkeep and other operational costs of the 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. The method of operation by the Department shall be in the manner it prescribes, notwithstanding any other provision of law designating sheriffs as the keepers of jails.

In lieu of an agreement by the localities with the Board for construction or operation of jail facilities, the Board may agree to sell land owned by the Commonwealth to the localities. The Governor is hereby authorized, at his discretion and upon the advice of the Board, to execute a conveyance of such land in a form approved by the Attorney General.

B. In the event that a county, city or town requests and receives financial assistance for capital costs of such jail project from the Department of Criminal Justice Services or from other public fund sources outside of the provisions of this section, the total financial assistance and reimbursement shall not exceed the total cost of the project.

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§ 53.1-82. Regional contracts for cooperative jailing of offenders.

A. Three or more counties or cities, or any combination thereof, are authorized to contract for services for the detention and confinement of categories of offenders in single or regional jail facilities operated by the contracting jurisdictions. In addition, (i) any three or more counties, cities or towns, or any combination thereof, operating a jail facility pursuant to an agreement for cooperative jailing established on or before January 31, 1993, (ii) any existing regional jail facilities established by only two cities, counties, or towns on or before June 30, 1982, and (iii) any regional jail facilities established by only two contiguous counties whose boundaries are not contiguous by land with the boundaries of any other county in the Commonwealth, may participate under the provisions of this section. The Board shall promulgate regulations specifying the categories of offenders which may be served pursuant to the contracts provided for herein.

The governing bodies of localities participating in an agreement for cooperative jailing shall create a board to advise the locality in which the jail facility is located on matters affecting operation of the facility. Each participating locality shall have at least one representative on the board. The sheriff and any member of the local governing body of each participating locality shall be eligible for appointment to the board; however, when a participating locality appoints more than one representative, the sheriff shall be appointed unless the sheriff is the administrator or superintendent of the jail facility operated pursuant to the agreement for cooperative jailing. A sheriff serving as such administrator or superintendent shall be an ex officio member of the board.

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, as defined in § 53.1-82.2, of such jail project in accordance with the provisions of this section and § 53.1-82.2. 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. 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 such reimbursement and to ensure the fair and equitable distribution of state funds provided for such purpose. The Department shall apply such regulations in preparing requests for appropriations. No such reimbursement shall be had unless the plans and specifications, including the need for additional personnel, thereof have been submitted to the Governor, and the jail project has been approved by him. The Governor shall base his approval in part on the expected operating cost-efficiency of the interior design of the facility. Such reimbursement shall be paid subject to the provisions of § 53.1-82.2.

B. In the event that a county, city or town requests and receives financial assistance for capital costs of a jail project from the Department of Criminal Justice Services or from other public fund sources outside of the provisions of this section, the total financial assistance and reimbursement shall not exceed the total cost of the project.

In addition, no such reimbursement shall be had by localities entering into a contract pursuant to this section on or after February 1, 1993, unless at least three of the participating localities were each operating a jail on February 1, 1993.

§ 53.1-95.19. State reimbursement.

An authority created pursuant to this article shall be eligible to receive state reimbursement for jail construction and operation in accordance with the provisions of Article 3 (§ 53.1-80 et seq.) of this chapter. State reimbursement for the cost of the project shall be made to the authority and shall be determined as if each participating political subdivision in the authority had contributed its pro rata share of such cost. However, when an authority created pursuant to this article enters into an agreement with one or more political subdivisions not participating in the authority for the purpose of construction and operating a jail, that share of the state reimbursement due to any political subdivision not participating in the authority shall be made directly to such political subdivision in accordance with the provisions of Article 3 of this chapter. The Commonwealth shall fund the positions of superintendent, correctional officers, and two-thirds of the salaries of required medical or treatment personnel on a basis approved by the State Compensation Board. Such salaries shall be paid in the manner provided in § 15.2-1609.2, and such section shall be applicable mutatis mutandis to such superintendent.

The superintendent of the correctional facility shall report on the first day of each month to the Director of the State Department of Corrections to give the record of each prisoner received during the preceding month on blank forms to be furnished by the Director, to state whether the offense for each prisoner is for violation of state law or of city or town ordinance. The report shall be signed by both the superintendent and chairman of the authority. Either signer found guilty of willfully falsifying the information contained in such report shall be guilty of a Class 1 misdemeanor.

If any superintendent fails to send such report within five days after the date when the report is to be forwarded, the Director shall notify the superintendent of such failure. If the superintendent fails to make

122 the report within ten days from that date, then the Director shall cause the report to be prepared from  
 123 the books of the superintendent and shall certify the cost thereof to the Comptroller. The Comptroller  
 124 shall issue his warrant on the Treasurer for that amount, deducting the same from any funds that may be  
 125 due the superintendent by the Commonwealth.  
 126 **2. That §§ 53.1-80, 53.1-82.2, and 53.1-82.3 of the Code of Virginia are repealed.**  
 127 **3. That any project approved by the Board of Corrections under § 53.1-80, 53.1-81, or 53.1-82 of**  
 128 **the Code of Virginia on or before [ ~~December 1, 2008~~ June 1, 2009, or was completed and**  
 129 **accepting inmates as of May 1, 2009 ] , shall be subject to (i) the relevant provisions of the Code**  
 130 **of Virginia and administrative regulations that were in existence at the time the project was**  
 131 **approved by the Board of Corrections and (ii) the funds appropriated for the project in the**  
 132 **general appropriation act.**

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