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SENATE BILL NO. 301

Offered January 8, 2014

Prefiled January 6, 2014

A BILL to amend and reenact §§ 53.1-81, 53.1-82, 53.1-83.1, and 53.1-95.19 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 53.1-82.4, relating to state reimbursement for certain jail construction and expenses; mental health beds.

Patron—McDougle

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 53.1-81, 53.1-82, 53.1-83.1, and 53.1-95.19 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 53.1-82.4 as follows:

§ 53.1-81. Construction and operation of regional jail facilities; state reimbursement; 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 if such project was approved by the Governor prior to July 1, 2014. 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 prior to July 1, 2014. 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.

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

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

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59 any combination thereof, operating a jail facility pursuant to an agreement for cooperative jailing
60 established on or before January 31, 1993, (ii) any existing regional jail facilities established by only
61 two cities, counties, or towns on or before June 30, 1982, and (iii) any regional jail facilities established
62 by only two contiguous counties whose boundaries are not contiguous by land with the boundaries of
63 any other county in the Commonwealth, may participate under the provisions of this section. The Board
64 shall promulgate regulations specifying the categories of offenders which may be served pursuant to the
65 contracts provided for herein.

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

74 When such contracts are approved by the Board and, for the implementation of the contract, require
75 the construction, enlargement or renovation of a regional jail facility or the enlargement or renovation of
76 an existing jail, the Commonwealth shall reimburse each such locality its pro rata share, up to one-half,
77 of the capital costs, as defined in § 53.1-82.2, of such jail project in accordance with the provisions of
78 this section and § 53.1-82.2 *if such project was approved by the Governor prior to July 1, 2014*. Any
79 agreement for cooperative jailing entered into on or after July 1, 1991, which requires the construction,
80 enlargement or renovation of a single or regional jail facility shall require such counties, cities and
81 towns to participate in the costs of the facility for a minimum period of thirty years. The Board shall
82 promulgate regulations, to include criteria which may be used to assess need and establish priorities, to
83 serve as guidelines in evaluating requests for such reimbursement and to ensure the fair and equitable
84 distribution of state funds provided for such purpose. The Department shall apply such regulations in
85 preparing requests for appropriations. No such reimbursement shall be had unless the plans and
86 specifications, including the need for additional personnel, thereof have been submitted to the Governor,
87 and the jail project has been approved by him *prior to July 1, 2014*. The Governor shall base his
88 approval in part on the expected operating cost-efficiency of the interior design of the facility. Such
89 reimbursement shall be paid subject to the provisions of § 53.1-82.2.

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

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

97 **§ 53.1-82.4. State reimbursement of localities for construction of mental health beds.**

98 A. Any locality, combination of localities, or regional jail authority is authorized, pursuant to
99 approval of the Board and Governor, to construct, enlarge, or renovate a jail or regional jail for the
100 purpose of adding mental health beds. The Commonwealth shall reimburse each locality its pro rata
101 share up to one-half of the capital costs, as defined in § 53.1-82.2, of construction, enlargement, or
102 renovation of a local or regional jail that, with the approval of the Board and Governor, constructs,
103 enlarges, or renovates a jail facility to add, on or after July 1, 2014, beds dedicated to mental health.

104 B. A locality, combination of localities, or regional jail authority may apply to the Board to be
105 reimbursed for its pro rata share up to one-half of the capital costs, as defined in § 53.1-82.2, of
106 construction, enlargement, or renovation of a local or regional jail to add, on or after July 1, 2014,
107 beds dedicated to mental health. The Board, in consultation with the Board of Behavioral Health and
108 Developmental Services, shall promulgate regulations specifying the application procedure, which shall
109 include (i) review of the application by the Board and the Board of Behavioral Health and
110 Developmental Services, (ii) criteria to assess need and establish priorities, and (iii) guidelines to use in
111 evaluating requests for reimbursement to ensure the fair and equitable distribution of state funds
112 provided for such purpose. The Department shall apply such regulations in preparing requests for
113 appropriations. No such reimbursement shall be made unless the plans and specifications, including the
114 need for additional personnel, and the results of the review by the Board and the Board of Behavioral
115 Health and Developmental Services have been submitted to the Governor and the jail project has been
116 approved by him. Such reimbursement shall be paid subject to the provisions of § 53.1-82.2.

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

121 § 53.1-83.1. How state appropriations for operating costs of local correctional facilities
122 determined.

123 The Governor's proposed biennial budget bill shall include, for each fiscal year, an appropriation for
124 operating costs for local correctional facilities. The proposed appropriation shall include:

125 1. An amount for compensating localities for the cost of maintaining prisoners arrested on state
126 warrants in local jails, regional jails and jail farms, at a specified rate per prisoner day;

127 2. An amount for maintaining convicted state felons in local correctional facilities, at a specified rate
128 per felon day, pursuant to § 53.1-20.1;

129 3. An amount to pay two-thirds of the salaries of medical and treatment personnel approved by the
130 State Compensation Board, *except that for salaries of treatment personnel dedicated to mental health*
131 *beds added pursuant to § 53.1-82.4, an amount to pay such salaries;* and

132 4. An amount to be set aside for unanticipated medical emergencies.

133 § 53.1-95.19. State reimbursement.

134 An authority created pursuant to this article shall be eligible to receive state reimbursement for jail
135 construction and operation in accordance with the provisions of Article 3 (§ 53.1-80 et seq.) of this
136 chapter. State reimbursement for the cost of the project shall be made to the authority and shall be
137 determined as if each participating political subdivision in the authority had contributed its pro rata share
138 of such cost. However, when an authority created pursuant to this article enters into an agreement with
139 one or more political subdivisions not participating in the authority for the purpose of construction and
140 operating a jail, that share of the state reimbursement due to any political subdivision not participating
141 in the authority shall be made directly to such political subdivision in accordance with the provisions of
142 Article 3 of this chapter. The Commonwealth shall fund the positions of superintendent, *and* correctional
143 officers, ~~and~~ two-thirds of the salaries of required medical or treatment personnel, *and the positions of*
144 *treatment personnel dedicated to mental health beds added pursuant to § 53.1-82.4* on a basis approved
145 by the State Compensation Board. Such salaries shall be paid in the manner provided in § 15.2-1609.2,
146 and such section shall be applicable mutatis mutandis to such superintendent.

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

153 If any superintendent fails to send such report within five days after the date when the report is to be
154 forwarded, the Director shall notify the superintendent of such failure. If the superintendent fails to make
155 the report within ten days from that date, then the Director shall cause the report to be prepared from
156 the books of the superintendent and shall certify the cost thereof to the Comptroller. The Comptroller
157 shall issue his warrant on the Treasurer for that amount, deducting the same from any funds that may be
158 due the superintendent by the Commonwealth.