

VIRGINIA ACTS OF ASSEMBLY -- 1995 SESSION

CHAPTER 305

An Act to amend and reenact §§ 53.1-80, 53.1-81, 53.1-82, 53.1-82.2 and 53.1-82.3 of the Code of Virginia, relating to reimbursement to localities, regional jail authorities, etc., for local or regional jails.

[H 1823]

Approved March 16, 1995

Be it enacted by the General Assembly of Virginia:

1. That §§ 53.1-80, 53.1-81, 53.1-82, 53.1-82.2 and 53.1-82.3 of the Code of Virginia are amended and reenacted as follows:

§ 53.1-80. State reimbursement of localities for construction.

A. On and after July 1, 1993, the Commonwealth shall reimburse any city or county up to one-fourth of the capital costs of a jail construction, enlargement or renovation project upon a basis approved by the Board in accordance with the provisions of this section. On and after July 1, 1993, (i) any three or more cities or counties, or any combination thereof, which do not qualify for reimbursement pursuant to § 53.1-81 or § 53.1-82 and (ii) any two cities or counties or any combination of a city and a county which jointly construct, enlarge or renovate a jail upon a basis approved by the Board in accordance with the provisions of this section shall be reimbursed by the Commonwealth on a pro rata basis up to one-fourth of the capital costs, as defined in § 53.1-82.2, of such project. 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. Reimbursements shall be *paid* subject to the provisions of § 53.1-82.2 and ~~shall be paid by the State Treasurer out of funds appropriated to the Department of Corrections.~~

B. In the event that a county or city 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 law, the total financial assistance and reimbursement shall not exceed the total cost of the project.

§ 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 authority consisting of facilities established by* three or more cities, counties or towns, or any combination thereof, ~~created~~ 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, ~~localities which are part of regional jails created by~~ any combination of three or more cities or counties ~~created~~ 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 by the State Treasurer out of funds appropriated to the Department *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 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 by the State Treasurer out of funds appropriated to the Department of Corrections 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.

§ 53.1-82.2. Method of reimbursement; involvement of the Treasury Board.

A. Reimbursements by the Commonwealth to localities or regional jail authorities for a portion of the capital costs of a jail project, made pursuant to §§ 53.1-80, 53.1-81, ~~or~~ § 53.1-82, or § 53.1-95.19 may be effected either:

1. In one lump sum payment to be made upon completion of the project, for minor renovation projects, or two equal lump sum payments, one such payment to be made upon certification that the construction, enlargement or renovation is fifty percent complete and the second such payment to be made upon completion of the project, such payments to be paid by the State Treasurer out of funds appropriated to the Department of Corrections; or

2. Over a specified period of time through a contractual agreement entered into by the Treasury Board and approved by the Governor, on behalf of the Commonwealth, and the locality, localities or regional authority or other combination of localities undertaking a jail project, *such payments to be paid by the State Treasurer out of funds appropriated to the Treasury Board.*

B. The General Assembly shall have the sole authority to determine whether reimbursement will be made pursuant to subdivision A 1 or subdivision A 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.

C. Any contract for reimbursement over a specified period of time entered into pursuant to subdivision A 2 shall include the following:

1. The Commonwealth shall reimburse a portion of financing costs as provided in subsection E below;

2. The Commonwealth's *reimbursement* payments shall be subject to appropriation ~~and shall be equal to the cost of debt service based upon an interest rate assumption equal to the coupon interest rate received by the locality or jail authority at the time the bonds for the project are sold;~~

3. In the event that the jail project is financed through a ~~bond issue~~ *an issuance of securities*, the Commonwealth shall ~~make its Commonwealth's~~ reimbursement payments ~~on~~ *shall be calculated using the coupon interest rates received by the locality or jail authority at the time the securities for the project are sold and shall be made pursuant to a schedule to be set forth in the contract;*

4. *In the event that a jail project is financed through an issuance of securities, and coupon interest rates are not available due to the structure of the securities, the Treasury Board is authorized to make such adjustments as are necessary and reasonable to calculate the Commonwealth's payments;*

4. 5. In the event that the jail project is financed through a ~~debt~~ method other than ~~bonds~~ *the issuance of securities*, the Commonwealth's payment shall include interest payments based on an interest rate assumption equal to the prevailing AA rate for *tax-exempt* bonds issued by the Commonwealth *or agencies thereof*, or the actual rate achieved, whichever is lower, and the schedule for the Commonwealth's reimbursement payments shall be set forth in the contract; and

5. 6. Such other terms and conditions as are necessary to specify the structure of the Commonwealth's participation in project financing and as may be required by ~~regulations promulgated~~ *guidelines established* by the Treasury Board.

Reimbursement to localities pursuant to this section shall be available without regard to the security level of the facility constructed, enlarged or renovated, provided such facility satisfies applicable standards established by the Board pursuant to § 53.1-68.

D. For purposes of this article, "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.

E. For purposes of this article, "financing costs" means the total of all costs incurred by the locality, localities or regional authority or other combination of localities as are deemed reasonable and necessary by the Treasury Board to execute the financing of the Commonwealth's payment of capital costs and to fund such funds and accounts as the Treasury Board determines to be reasonable and necessary.

§ 53.1-82.3. Budgeting schedule for jail projects.

~~Beginning July 1, 1993, and ending January 1, 1995, any city or county or any combination of cities or counties requesting state financial assistance pursuant to §§ 53.1-80, 53.1-81 or § 53.1-82 shall, on or before March 1, 1994, submit to the Governor, in a format prescribed by the Department of Corrections for such purpose, community corrections plans and specifications, including detailed cost estimates of any facility construction. On or before July 1, 1994, such localities shall also submit to the Governor, in a format prescribed for such purpose by the Treasury Board, the expected financing costs for any such facility construction in accordance with § 53.1-82.2. The Governor shall submit his recommendations for funding such projects as part of the budget bill on or before December 20, 1994, for consideration by the 1995 Session of the General Assembly.~~

A. ~~Beginning January 1, 1995,~~ Any city or county or any combination of cities or counties requesting state financial assistance pursuant to §§ 53.1-80, 53.1-81 or § 53.1-82 shall, on or before March 1 biennially in the odd-numbered years, submit to the Governor, in a format prescribed by the Department of Corrections for such purpose, community corrections plans 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, in a format prescribed for such purpose by the Treasury Board, the expected financing costs for any such facility construction in accordance with § 53.1-82.2. 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. ~~Beginning July 1, 1995,~~ Requests for appropriations of such funds shall be considered by the General Assembly only in even-numbered years.

B. *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 Treasury Board, the expected financing costs for any such facility construction in accordance with subsection A above, unless such localities seek reimbursement of financial costs associated with such facility construction.