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SENATE JOINT RESOLUTION NO. 318

Senate Amendments in [] — February 4, 1997

[~~Requesting~~ Directing] the Commission on Educational Infrastructure to examine the integrity of the revenues of the Literary Fund.

Patron—Marye

Referred to the Committee on Rules

WHEREAS, the Literary Fund was originally established in 1810 as a statutory mechanism for funding the education of poor children; and

WHEREAS, in 1869, the Literary Fund was added to the Virginia Constitution; and

WHEREAS, Section 8 of the Constitution of Virginia establishes the Literary Fund as a "permanent and perpetual school fund" which is "held and administered by the Board of Education in such manner as may be provided by law"; and

WHEREAS, the Constitution of Virginia does not confine the Literary Fund to any specific "school" use, but assigns the General Assembly the task of making that determination in law; and

WHEREAS, the moneys in the Literary Fund are primarily designated "for erecting, altering or enlarging school buildings"; and

WHEREAS, the integrity of the Literary Fund is important for funding direct loans to school divisions for school construction and for the viability of the Virginia Public School Authority—a bond bank for school construction purposes; and

WHEREAS, the Literary Fund revenues are generated from various sources, the most important of which is "fines for offenses against the Commonwealth"; and

WHEREAS, over the years, many local governing bodies have developed parallel systems of offenses and fines through ordinances for many infractions, including most traffic violations; and

WHEREAS, when individuals are charged under a local ordinance, the funds flow into the local coffers and not into the Literary Fund; and

WHEREAS, another mechanism for avoiding the Literary Fund is the imposition of civil penalties at the local level for various offenses, ranging from violations of dog leash laws to failure to purchase permits; and

WHEREAS, Section 8 of the Virginia Constitution authorizes the General Assembly to "set aside all or any part of additional moneys received" by the Literary Fund, "so long as the principal of the Fund totals as much as eighty million dollars"; and

WHEREAS, over the past 30 years or more, controversy has often arisen concerning this minimum principal (\$80 million) required by the Constitution to remain in the Fund and the use of the Literary Fund moneys for "other school purposes"; and

WHEREAS, diversions of Literary Fund moneys at the state level are mirrored by the local diversions of the Literary Fund's revenue streams through the use of civil penalties and parallel local ordinances; now, therefore, be it

RESOLVED by the Senate of Virginia, the House of Delegates concurring, That the Commission on Educational Infrastructure be [~~requested~~ directed] to examine the integrity of the revenues of the Literary Fund. Specifically, the Commission is requested to evaluate (i) any mechanisms available to restore the Literary Fund's lending capacity to that which would have existed but for the large diversions in the state budgets during the early 1990s; (ii) the appropriateness of the various civil penalties, whether state or local, and where such civil penalties are deposited; (iii) if feasible, how the various local civil penalties are used; (iv) the scope of local ordinances establishing parallel systems of violations; and (v) whether any limitations or revisions should be recommended for civil penalties or parallel ordinances.

The Commission shall include this analysis, and any recommendations for limitations or revisions in the present system, in its final report, to be presented to the Governor and the 1998 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for [the] processing [of] legislative documents.

ENGROSSED

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