1997 Session

Budget Bill - HB1600 (Chapter 924)

Compensation Board

Item 78	First Year - FY1997	Second Year - FY1998
Financial Assistance for Confinement in Local Facilities (35600)	~~$49,221,240~~ ***$48,058,312***	~~$45,150,848~~ ***$64,861,244***
Financial Assistance for Adult Confinement in Local Facilities (35601)	~~$49,221,240~~ *$48,058,312*	~~$45,150,848~~ *$64,861,244*
Fund Sources:		
General	~~$49,221,240~~ *$48,058,312*	~~$45,150,848~~ *$64,861,244*

Authority: §§ 53.1-83.1, 53.1-84 and 53.1-85, Code of Virginia.

A. The individual or entity responsible for operating any facility which receives funds from this Item may, if requested by the Department of Corrections, enter into an agreement with the Department to accept the transfer of convicted felons, specified in Paragraph F. or G. of this Item, from other local facilities. In entering into any such agreements, or in effecting the transfer of offenders, the Department of Corrections shall consider the security requirements of transferred offenders and the capability of the local facility to maintain such offenders. For purposes of calculating the amount due each locality, all funds earned by the locality as a result of an agreement with the Department of Corrections shall be included as receipts from these appropriations.

B. The appropriation in this Item also includes an amount not to exceed $377,010 ~~in each~~ *the first* year *and $377,010 the second year from the general fund*, which shall be held in reserve for unbudgeted medical expenses incurred by local correctional facilities in the care of state responsible felons as defined by § 53.1-20, Code of Virginia.

C. Should this appropriation prove to be insufficient to fund all of the provisions, any amount remaining in the reserve as of June 1, 1997, and June 1, 1998, may be reallocated among localities on a pro rata basis according to such deficiency.

D. The following amounts shall be paid out of this appropriation to compensate localities for the cost of maintaining prisoners arrested on state warrants in local correctional facilities, as defined by § 53.1-1, Code of Virginia, or if the prisoner is not housed in a local correctional facility, in an alternative to incarceration program operated by, or under the authority of, the sheriff or jail board:

1. $8.00 per prisoner day, and

2. an additional $14.00 per prisoner day if the prisoner is housed and maintained in a jail farm not under the control of the sheriff.

E. For the payment specified in Paragraph D. of this Item for prisoners in alternative punishment or alternative to incarceration programs:

1. Such payment is intended to be made for prisoners that would otherwise be housed in a local correctional

facility. It is not intended for prisoners that would otherwise be sentenced to community service or placed on probation.

2. No such payment shall be made unless the program has been approved by the Department of Corrections or the Department of Criminal Justice Services. Alternative punishment or alternative to incarceration programs, however, may include supervised work experience, treatment, and electronic monitoring programs.

F. In addition to the amounts specified in Paragraph D. of this Item, $6.00 per prisoner day shall be paid out of this appropriation to maintain any felon sentenced to the Department of Corrections for a felony committed before January 1, 1995, in local correctional facilities pursuant to § 53.1-20.1, Code of Virginia. Such payment shall be made on and after the sixty-first day ~~after the sentencing~~ *following the receipt of the final court* order for felons sentenced for a total of more than two years.

G. In addition to the amounts specified in Paragraph D. or of this Item, $6.00 per prisoner day shall be paid out of the appropriation to maintain any person convicted of a felony committed on or after January 1, 1995, in local correctional facilities pursuant to § 53.1-20.1, Code of Virginia. Such payment shall be made on and after the sixty-first day ~~after the date of sentencing~~ *following the receipt of the final court* order for felons sentenced for a total of more than six months.

H.1. Where a convicted felon is held awaiting trial for additional felony charges, the payment specified in Paragraph F. or G of this Item shall not be made until all such charges are adjudicated.

2. The payment specified in Paragraph F. or G of this Item shall be made as follows, whichever is later: a. beginning on the date that the final outstanding felony charge is adjudicated; or, b. as specified in Paragraph F. or G of this Item.

3. The payment specified in Paragraph F. or G of this Item shall not be made for any convicted felon who remains incarcerated in a local correctional facility at the request of the locality.

I. Effective July 1, 1996, in addition to the amounts specified in paragraphs F. or G. of this section, the Comptroller shall transfer to the Compensation Board, from funds appropriated in this act to the Department of Corrections, an amount to compensate the localities for the full cost of confining convicted felons pursuant to § 53.1-20.1 of the Code of Virginia. The Compensation Board shall pay to the localities such sums as follows:

1. In the case of felons convicted of offenses committed prior to January 1, 1995, who have been sentenced to more than ~~three~~ *two* years, $1.00 per prisoner day from the sixty-first to the ninetieth day ~~from sentencing~~ *from the receipt by the Director of the Department of Corrections of the complete final order from the clerk of the committing court*, $3.00 per prisoner day from the ninety-first to the one hundred twentiety day from ~~the day of sentencing~~ *the Director's receipt of the complete final order from the clerk of the committing court*, and $6.00 per prisoner day thereafter.

2. In the case of felons convicted of offenses committed *on or* after January 1, 1995, who have been sentenced to more than ~~one year~~ *six months*, $1.00 per prisoner day from the sixty-first to the ninetieth day ~~from sentencing~~ *from the receipt by the Director of the Department of Corrections of the complete final order from the clerk of the committing court*, $3.00 per prisoner day from the ninety-first to the one hundred twentiety day from the day of ~~sentencing~~ *the Director's receipt of the complete final order from the clerk of the committing court*, and $6.00 per prisoner day thereafter.

J. There is hereby reappropriated the unexpended balance remaining at the close of business on June 30, 1996, in the appropriation made in Item 87 of Chapter 853, Acts of Assembly (1995), and any amendment thereto, in the subprogram Financial Assistance for Confinement in Local Facilities, and the balance remaining in this subprogram on June 30, 1997.

K.1. Except as provided for in paragraph K.2., *and K.3.,* and notwithstanding any other provisions of this item, the Compensation Board shall reimburse any locality with an average daily jail population of under ten in fiscal year 1995 an inmate per diem rate of $22 per day for local responsible inmates and $28 per day for state responsible inmates held in these jails in lieu of personal service costs for corrections' officers, effective July 1, ~~1997~~ *1998*.

2. Any locality covered by the provisions of this section shall be exempt from the provisions thereof if such locality has entered into an agreement to house its prisoners in an existing regional jail, reduces daily operating costs to the state-wide average by June 30, 1997, or has entered into an agreement by June 30, 1997, to participate in the construction of a new regional facility, which is consistent with the provisions of Item 469.~~E~~ *A*.4., of this act.

3. Any locality covered by the provisions of this section shall be exempt from the provisions thereof provided that the locally elected sheriff, with the assistance of the Compensation Board, enters into good faith negotiations to house his prisoners in an existing local or regional jail. In establishing the per diem rate and capital contribution, if any, to be charged to such locality by a local or regional jail, the Compensation Board and the local sheriff or regional jail authority shall consider the operating support and capital contribution made by the Commonwealth, as required by §15.1-91, Code of Virginia. The Compensation Board shall report periodically to the Chairmen of the House Appropriations and Senate Finance Committees on the progress of these negotiations and may withhold the exemption granted by this paragraph if, in the Board's opinion, the local sheriff fails to negotiate in good faith.

~~L. Effective July 1, 1997, the Compensation Board shall recover and deposit into the general fund an overhead charge for each federal prisoner held in a local or regional jail. Such overhead charge shall be at a daily rate per federal prisoner to be determined by the Auditor of Public Accounts based on an indirect cost allocation study for each facility housing federal prisoners.~~

L.1. Effective July 1, 1997, the Compensation Board shall recover and deposit into the general fund 50 percent of the federal share of state-funded personnel costs based on the percentage of federal prisoners to total prisoners held in a local or regional jail. The Compensation Board shall compute the federal share using prisoner population information and state-funded personnel costs. State-funded personnel costs shall be based on the May 1 budgeted amounts and any amendments thereto for salaries and fringe benefit costs of corrections officers, medical treatment, classification, cooks, and administrative positions approved by the Compensation Board for the facility. The Compensation Board shall deduct the federal share from the facility's next quarterly per diem payment for state and local inmates. Upon certification by the Sheriff or Superintendent that the federal government has paid for the construction of bed space in the facility, or provided a grant for a portion of the capital cost, the Compensation Board shall reduce the federal and total prisoner population by the federal prisoners corresponding to the facility capacity, as defined by the Department of Corrections, funded by the federal government. The provisions of this paragraph shall not apply to any local or regional jail where the cumulative federal share of the capital cost exceeds the Commonwealth's cumulative capital contribution.

2. The Compensation Board may recover state-funded personnel costs using a method different from that set forth in paragraph L.1., if the local sheriff or regional jail administrator submits a cost allocation report justifying such alternative method to the Auditor of Public Accounts, and such report is reviewed and approved by the Auditor of Public Accounts.

3. Any local or regional jail which receives funding from the Compensation Board shall give priority to the housing of local-responsible; state-responsible; and state contract inmates, in that order, as provided in paragraph L.4.

4. The Compensation Board shall not provide any inmate per diem payments to any local or regional jail which holds federal inmates in excess of the number of beds contracted for with the Department of Corrections, unless the Director of the Department of Corrections certifies to the Chairman of the Compensation Board that: a) such contract beds are not required; b) the facility has operational capacity built under contract with the federal government; c) the facility has received a grant from the federal government for a portion of the capital cost; or d)

the facility has applied to the Department of Corrections for participation in the contract bed program with a sufficient number of beds to meet the Department of Corrections need or ability to fund contract beds at that facility in any given fiscal year.

M.1. Local or regional jails receiving funds from the State Compensation Board shall give priority to the housing of inmates in order of local-responsible, state-responsible, and state contract inmates. Within the limits of funds appropriated in this item, local and regional jails shall enter into agreements with the Director, Department of Corrections, to house state-responsible offenders and effect transfers of convicted state felons between and among local and regional jails.

2. Such agreements shall be entered into for a period of one year, subject only to the limitations of available funding, with a minimum percentage of bedspace guaranteed by the local or regional jail, and shall take precedence over contracts for housing federal prisoners, within the limits of bedspace availability as defined pursuant to standards of the Board of Corrections, except in any case where a federal agency has contributed a share of the capital cost of the facility in return for a guarantee of a proportional number of beds. Bedspace pursuant to such agreements shall be determined by the Director, Department of Corrections, based upon state prisoner intake compliance, operational capacity of the jail, and current and projected prisoner population of the jail.

3. Pursuant to such agreements, the State Compensation Board is authorized to reimburse localities an amount not to exceed $14 per state felon day, which shall be in addition to any such amounts otherwise authorized by this act. Any such funds received by the localities as a result of this provision shall be used for the maintenance and operation of the local or regional facility.