2006 Special Session I

Budget Bill - HB5002 (Chapter 3)

Compensation Board

Item 60	First Year - FY2007	Second Year - FY2008
Financial Assistance for Confinement of Inmates in Local and Regional Facilities (35600)	**$70,734,695**	**$70,734,695**
Financial Assistance for Local Jail Per Diem (35601)	$48,483,770	$48,483,770
Financial Assistance for Regional Jail Per Diem (35604)	$22,250,925	$22,250,925
Fund Sources:		
General	$70,734,695	$70,734,695

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

A. In the event the appropriation in this Item proves to be insufficient to fund all of its provisions, any amount remaining as of June 1, 2006, and June 1, 2007, may be reallocated among localities on a pro rata basis according to such deficiency.

B. For the purposes of this Item, the following definitions shall be applicable:

1. Effective sentence--a convicted offender's sentence as rendered by the court less any portion of the sentence suspended by the court.

2. Local responsible inmate--(a) any person arrested on a state warrant and incarcerated in a local correctional facility, as defined by § 53.1-1, Code of Virginia, prior to trial; (b) any person convicted of a misdemeanor offense and sentenced to a term in a local correctional facility; or (c) any person convicted of a felony offense and given an effective sentence of (i) twelve months or less or (ii) less than one year.

3. State responsible inmate--any person convicted of one or more felony offenses and (a) the sum of consecutive effective sentences for felonies, committed on or after January 1, 1995, is (i) more than 12 months or (ii) one year or more, or (b) the sum of consecutive effective sentences for felonies, committed before January 1, 1995, is more than two years.

C. 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, from other local facilities or from facilities operated by the Department of Corrections. 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.

D. Out of this appropriation, an amount not to exceed $377,010 the first year and $377,010 the second year from the general fund, is designated to be held in reserve for unbudgeted medical expenses incurred by local correctional facilities in the care of state responsible felons.

E. The following amounts shall be paid out of this appropriation to compensate localities for the cost of maintaining prisoners 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. For local responsible inmates--$8 per inmate day, or, if the inmate is housed and maintained in a jail farm not under the control of the sheriff, the rate shall be $22 per inmate day.

2. For state responsible inmates:

a. Who are being held awaiting trial for additional felony charges--$8 per inmate day.

b. With all pending charges adjudicated:

i. $8 per inmate day—for up to sixty days following the mailing by certified letter or electronic transmission to the Department of Corrections of the final court order within thirty days after the order being issued.

ii. $14 per inmate day—on and after the sixty-first day following the mailing by certified letter or electronic transmission to the Department of Corrections of the final court order within thirty days after the order being issued.

iii. $14 per inmate day—on and after the ninety-first day following the date of final sentence, if the final court order was not mailed by certified letter or electronic transmission to the Department of Corrections within thirty days after the order being issued.

c. Who remain incarcerated in a local correctional facility at the request of the locality--$8 per inmate day.

F. For the payment specified in paragraph E1 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.

G.1. Except as provided for in paragraph G 2, 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 FY 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.

2. 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 §§ 15.2-1613, 15.2-1615.1, 53.1-80, and 53.1-81, 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.

H.1. The Compensation Board shall recover the state-funded personnel costs associated with housing federal inmates, District of Columbia inmates or contract inmates from other states. The Compensation Board shall determine, by individual jail, the amount to be recovered by the Commonwealth by multiplying the jail's current inmate days for this population by the proportion of the jail's per inmate day salary funds provided by the Commonwealth, as identified in the most recent Jail Cost Report prepared by the Compensation Board. If a jail is not included in the most recent Jail Cost Report, the Compensation Board shall use the statewide average of per inmate day salary funds provided by the Commonwealth.

2. The Compensation Board shall deduct the amount to be recovered by the Commonwealth from the facility's next quarterly per diem payment for state-responsible and local-responsible inmates. Should the next quarterly per diem payment owed the locality not be sufficient against which to net the total quarterly recovery amount, the locality shall remit the remaining amount not recovered to the Compensation Board.

3. The provisions of this paragraph shall not apply to any local or regional jail where the cumulative federal share of capital costs exceeds the Commonwealth's cumulative capital contribution.

4. 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 H1.

5. 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 costs; 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.

6. Any sheriff or regional jail administrator who houses contract prisoners from other states, the District of Columbia, or the federal government for more than 48 hours, shall provide a monthly report to the Director of the Department of Corrections, which shall include the classification of the level of security of each such contract inmate and the level of security of the housing unit in which such inmates are confined.

7. The Compensation Board shall apply the cost recovery methodology set out in paragraph H1 of this Item to any jail which holds inmates from another state on a contractual basis. However, recovery in such circumstances shall not be made for inmates held pending extradition to other states or pending transfer to the Virginia Department of Corrections.

8. Any regional jail with a fiscal year 2004 Department of Corrections rated capacity between 175 and 185, which by resolution certifies to the Compensation Board that it has expanded its member jurisdictions by one or more, or has entered into agreements extending four or more years to house inmates from one or more jurisdictions, shall be exempt from 25 percent of any amounts that would otherwise be recovered under the provisions of paragraph H.1. of this item until June 30, 2008.

I.1. Local or regional jails receiving funds from the 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 jail contract bed agreements, the 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.

J. There is hereby reappropriated the unexpended balance remaining in this program on June 30, 2006, and June 30, 2007.

K. Any amounts in the program Financial Assistance for Confinement of Inmates in Local and Regional Facilities, may be transferred between Items 59 and 60, as needed, to cover any deficits incurred in the programs Financial Assistance for Sheriffs' Offices and Regional Jails and Financial Assistance for Confinement of Inmates in Local and Regional Facilities.

L. Projected growth in per diem payments for the support of prisoners in local and regional jails shall be based on actual inmate population counts up through the first quarter of the affected fiscal year.