

**STUDY OF PAY AND FRINGE BENEFITS OF
CONSTITUTIONAL OFFICERS AND THEIR EMPLOYEES**

REPORT

OF THE

VIRGINIA ADVISORY LEGISLATIVE COUNCIL

REPORTED TO

THE GOVERNOR

AND

GENERAL ASSEMBLY OF VIRGINIA



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COMMONWEALTH OF VIRGINIA
Department of Purchases and Supply
Richmond
1977

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REPORT
OF THE
VIRGINIA ADVISORY LEGISLATIVE COUNCIL
ON
PAY AND FRINGE BENEFITS OF
CONSTITUTIONAL OFFICERS AND THEIR EMPLOYEES
UNDER HOUSE JOINT RESOLUTION NO. 220

Richmond, Virginia
December, 1977

TO: Honorable Mills E. Godwin, Jr., Governor of Virginia

and

The General Assembly

The Virginia Advisory Legislative Council has accepted the following report from its committee that conducted the study of pay and fringe benefits of constitutional officers and their employees and has ordered the report printed and distributed to members of the General Assembly for purposes of discussion and consideration.

**Report
to the
Virginia Advisory Legislative Council**

**Part I
Introduction and Finding of Facts**

During the 1977 Session of the General Assembly House Joint Resolution No. 220 was adopted directing the Virginia Advisory Legislative Council to conduct the study proposed therein. Such resolution is as follows:

House Joint Resolution No. 220

Directing the Virginia Advisory Legislative Council to conduct a study concerning the compensation, hours of work and fringe benefits afforded to local Constitutional officers, their deputies, assistants, clerks and other employees as contrasted to those afforded other local officers, their deputies, assistants, clerks and other employees, and the desirability and practicability of allowing greater variation in the compensation paid to local Constitutional officers.

WHEREAS, local Constitutional officers and their deputies, assistants clerks and other employees, hereinafter collectively referred to as employees, are neither State employees nor local government employees; and

WHEREAS, local Constitutional officers and their employees work closely with local government officers and their employees, many times performing similar tasks; and

WHEREAS, the difference in pay, hours and fringe benefits between the two groups tend to cause friction; and

WHEREAS, the actual duties, responsibilities and work loads of Constitutional officers of the several localities within the Commonwealth are not homogeneous; and

WHEREAS, considerable variability is introduced into the comparative tasks of Constitutional officers of these localities by differences of population, assessed valuation of property, median income, and other factors; and

WHEREAS, it appears that at present the State Compensation Board has not been giving sufficient consideration to such interlocality variations in fixing rates of compensation for such Constitutional officers; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Virginia Advisory Legislative Council is requested to study the pay, hours and fringe benefits available to Constitutional officers and their employees as contrasted to the pay, hours and fringe benefits available to local government officers and their employees to determine whether such incidents of employment should be made more nearly homogeneous, to determine whether the costs of the local Constitutional officers should be borne in a larger percentage by the Commonwealth, and to determine the relationships and responsibilities of local governing bodies to such Constitutional officers and the relationships and responsibilities of such Constitutional officers to local governing bodies. The Council shall, further, study the desirability and practicability of allowing greater flexibility in the compensation of local Constitutional officers as hereinabove stated. The Council shall complete its work and report its findings, together with its legislative or other recommendations, to the Governor and General Assembly on or before November one, nineteen hundred seventy-seven.

The Council appointed Delegate Robert R. Gwathmey, III, of Mechanicsville to chair the study. The persons listed below composed the study committee. They are:

Edwin B. Baker, Attorney at Law, Keysville;
Beverly Beidler, Member of City Council, Alexandria;
Patrick J. Bynum, Commonwealth Attorney, Hanover County, Ashland;
Senator Charles J. Colgan, Manassas;
Charles B. Covington, Treasurer, Newport News;
Delegate Richard W. Elliott, Rustburg;
Senator Dudley J. Emick, Fincastle;
Samuel S. Gusler, Member of Henry County Board of Supervisors, Collinsville;
Delegate Johnny S. Joannou, Portsmouth;
William S. Kerr, Commonwealth Attorney, Appomattox County, Appomattox;
Alma Leitch, Commissioner of the Revenue, Fredericksburg;
Delegate C. Hardaway Marks, Hopewell;
W. R. Moore, Chairman of Campbell County Board of Supervisors, Lynchburg; and
Samuel W. Swanson, Clerk of the Circuit Court of Pittsylvania County, Chatham.

The study committee was addressed by various constitutional officers and by the Chairman and Executive Secretary of the State Compensation Board.

The following points were ascertained by the study committee:

A constitutional officer has the sole authority, in absence of contrary statutory directive to establish personnel policies for his office;

Such officer may have the opportunity to have his employees included in a given locality's personnel system—most constitutional officers do not so elect since to do so would surrender to a large degree control over their

personnel;

Total compensation is composed of salary plus a package of fringe benefits. Customarily fringe benefits are assumed to include yearly vacation with pay, sick leave with pay, retirement benefits and hospital and medical insurance;

Salary of constitutional officers is set within population ranges by statute and is further adjusted within such ranges by the Compensation Board;

Salaries of employees of constitutional officers are regulated by the Compensation Board by virtue of its authority to approve the number of positions and budgets of such officers. Within its authority, and budget, the Board attempts to authorize salaries in such budgets as would match the salaries paid by local government for similar work. However, salaries authorized by the Compensation Board do not exceed salaries requested in the budgets of constitutional officers, absent a statutory directive to the contrary, and in some instances this may be less than those paid by the local government for similar work. Conversely, the Board in authorizing salaries of constitutional officers' employees in some instances do not authorize salaries equal those paid by local government to its employees;

Minimum vacation time with pay and sick leave with pay for constitutional officers and their employees is required by § 15.1-19.3 of the Code of Virginia;

Retirement benefits are furnished constitutional officers and their employees by including them in the retirement plan of their locality. All localities (in this instance, counties and cities) must be a member of the Virginia Supplemental Retirement System or have a local system comparable or better than the State system. Most of Virginia's counties and cities are members of the Virginia Supplemental Retirement System; and

Hospital and medical insurance is frequently a fringe benefit that would be available to constitutional officers and their employees if they are members of the localities' personnel plan. The cost of such insurance where available to constitutional officers and their employees is paid entirely by the local government.

Part II Conclusions

Constitutional officers (treasurer, commissioner of the revenue, clerk of the circuit court, attorney for the Commonwealth and sheriff) are elected officials charged with performing duties prescribed by statute. It is not desirable to minutely regulate the manner in which their duties are performed. While the independence of constitutional officers from both State and local pressures is desirable and should be maintained and protected; it is incumbent upon constitutional officers to be aware of their obligation to conduct their offices in harmony with the government of the

locality in which they are located.

**Part III
Recommendations**

No additional legislation is needed at this time to bring the compensation of constitutional officers and their employees closer to the compensation of local government officers and employees. However, to bring about and promote harmonious local government relationships constitutional officers should request compensation for their employees equal to, but not exceeding the prevailing local government rate of compensation for similar work. Such standard of compensation should be insisted upon and maintained by the Compensation Board. The Compensation Board should exert continually its best efforts to have such compensation brought to parity and request funds that will be needed to attain this goal. The budget of the Compensation Board for the coming biennium should be increased \$ 4,000,000 so the Board may reimburse local governments, at least in part, for the cost of hospital and medical insurance premiums paid for constitutional officers and their employees (estimated to be six thousand five hundred persons) where such officers and employees are included in local government plans or to pay for such insurance directly to such officer or employee in those localities where they are not eligible or are not covered by the local government plan. The suggested budget increase is based on the cost to the Commonwealth of Virginia of a basic health insurance policy for its employees (\$ 24.30 per month).

The budget of the Compensation Board should be further increased in the amount necessary to provide funding for the proper training and equipment requested by the offices of attorney for the Commonwealth and sheriff so as to enable such officials to better perform their statutory duties.

A study should be conducted on the distribution of excess fees collected by clerks of circuit courts and on the pay of supplements to constitutional officers by local governments. The Committee members are opposed to salary supplements and believe they should be phased out as the compensation of constitutional officers and their employees are made comparable with that of the officers and employees of local government.

Respectfully submitted,

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Edward E. Lane, Chairman

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Lawrence Douglas Wilder, Vice Chairman

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George E. Allen, Jr.

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Peter K. Babalas

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Vincent F. Callahan, Jr.

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Joseph V. Gartlan, Jr.

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