

COST OF CAPITAL PROJECTS OTHER THAN SCHOOLS

....

REPORT OF THE

COMMITTEE ON LOCAL GOVERNMENT OF THE SENATE

AND THE COMMITTEE ON COUNTIES, CITIES AND TOWNS

OF THE

HOUSE OF DELEGATES

TO

THE GENERAL ASSEMBLY OF VIRGINIA



SENATE DOCUMENT NO. 24

COMMONWEALTH OF VIRGINIA
DIVISION OF PURCHASES AND SUPPLY
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MEMBERS OF THE JOINT SUBCOMMITTEE

CHARLES L. WADDELL, CHAIRMAN
THOMAS J. MICHIE, JR.
WILEY F. MITCHELL
FRANK RAFLO
EVA F. SCOTT
VINCENT SHEA
HILDA M. TRAINA
RAYMOND E. VICKERY, JR.
ROBERT C. WATTS, JR.

STAFF

Administrative and Clerical:

Office of the Clerk, Senate of Virginia

Legal and Research:

Division of Legislative Services

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Report of the

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the House of Delegates

To

The General Assembly of Virginia

Richmond, Virginia

February, 1979

To: The General Assembly of Virginia

I. Introduction

The joint committee was directed by Senate Joint Resolution No. 88 to study the cost of capital projects other than schools and to report their findings. A copy of the resolution is as follows:

SENATE JOINT RESOLUTION NO. 88

WHEREAS, local governments from time to time have difficulty in financing capital projects other than schools; and

WHEREAS, the capital projects are necessary for effective and efficient local government administration; and

WHEREAS, in some instances, local governments are mandated by law to construct, repair or otherwise make available sufficient government facilities—such as court facilities; and

WHEREAS, many capital projects often serve not only the needs of local government but also serve the needs of and benefit the Commonwealth generally, such as in the case of providing sufficient court facilities; and

WHEREAS, the cost of local government is constantly increasing and thus placing additional burdens on local tax resources and other local sources of revenue; and

WHEREAS, local governments from time to time have need to borrow funds to finance capital projects other than for schools; and

WHEREAS, the expense of local government bond issues for such capital projects is

considerable; now, therefore, be it

RESOLVED by the Senate of Virginia, the House of Delegates concurring, That a joint subcommittee of the Senate's Local Government Committee and the House of Delegates' Committee on Counties, Cities and Towns is hereby created. The joint subcommittee shall be empowered to call upon experts to make up the remainder of the joint study subcommittee. The joint subcommittee shall consider the problems encountered by local governments in obtaining the necessary funds for capital projects, other than public schools, and shall suggest possible solutions.

A. The study shall include the obtaining of funds for capital outlay purposes through: increase in local taxation; low-interest short-term borrowing by the locality; and low-interest long-term borrowing by the locality.

B. The possibility of State aid or assistance in raising capital outlay funds.

C. The establishment of an authority of the Commonwealth authorized to purchase, with funds appropriated by the Commonwealth to the authority at public or private sale and for such price and on such terms as it shall determine, bonds or other obligations issued by counties, cities or towns for capital outlay projects other than schools, both general government projects and revenue-producing projects.

D. The feasibility of amending the Constitution of Virginia to permit such borrowing by localities to be made without referendum.

The joint subcommittee shall complete its study and make its report to the nineteen hundred seventy-nine Session of the General Assembly.

The legislative members of the joint subcommittee are Senators Charles L. Waddell of Sterling, Chairman, and Wiley F. Mitchell, Jr., of Alexandria. Also, Delegates Thomas J. Michie, Jr., of Charlottesville, Eva F. Scott of Church Road, and Raymond E. Vickery, Jr., of Vienna.

The legislative members invited Mr. Frank Raflo, supervisor for Loudoun County; Mr. Vincent Shea, Professor, Institute of Government, University of Virginia; Mrs. Hilda M. Traina, member of the Hopewell City Council and former mayor of the city; and Mr. Robert C. Watts, Jr., Treasurer of the Commonwealth of Virginia.

Members of the subcommittee decided to hear from representatives of local governments to learn the scope of the task facing it. A public hearing was held, following notification by the Virginia Municipal League and the Virginia Association of Counties to their respective memberships. Various officials of local governments detailed the demands placed on such governments for the construction of court facilities, sewage treatment plants, and air pollution abatement devices, among others.

Following the public hearing, members of the joint subcommittee determined that facilities and devices required to obtain clean water and air were generally required as a result of federal law and therefore not subject to state control.

The one item that was amenable, in some degree, to state legislative action was the construction of courthouses.

The joint subcommittee investigated various sources of financing for construction of capital projects. It was pointed out that the Literary Fund provides a limited amount of money for educational purposes but such fund was established in the Commonwealth's Constitution with an earmarked source of funds. While a similar fund for other purposes would be desirable this would require an amendment of the Constitution and more importantly a source of money. The initial seed money for such a fund to be of immediate benefit was estimated to be between twenty-five to fifty million dollars. At this time the joint subcommittee membership was of the opinion such borrowing by the Commonwealth would not be practical. Aside from borrowing from the Commonwealth (at its cost to borrow), the next less costly method of borrowing is for the various local governments to issue their own general obligation bonds.

The membership then concentrated its work on the repair or construction of courthouses. Testimony given before the joint subcommittee indicated that many of the courthouses in the Commonwealth are quite old and this fact, together with the increase in population, has made them inadequate, in varying degrees, for carrying out the court's function. Such circumstances have led to an increasing number of requests to rebuild courthouses or erect new ones. The demand for new or enlarged facilities comes at a time of increasing voter resistance to the expenditure of public funds. Such opposing views places local governing bodies in the middle.

In an attempt to settle matters in dispute between courts and local governing bodies over court facilities, while at the same time preserving to the courts the ultimate decision in such matters, the joint subcommittee membership endorses the proposed legislation attached (Exhibit I).

This legislation would provide for an independent panel of five members, if requested by the local governing body and to be paid by such body, to view the courthouse and make non-binding recommendations to the court regarding courthouse construction and repair. This procedure would be available to local governments prior to an order of the Court being entered requiring construction.

Considering the economic conditions now prevailing, members of the joint subcommittee recommend no further action be taken.

Respectfully submitted,

Charles L. Waddell, Chairman

Thomas J. Michie, Jr.

Wiley F. Mitchell

Frank Raflo

Eva F. Scott

Vincent Shea

Hilda M. Traina

Raymond E. Vickery, Jr.

Robert C. Watts, Jr.

Exhibit I

A BILL to amend and reenact § 15.1-267 of the Code of Virginia, relating to repair of courthouses.

Be it enacted by the General Assembly of Virginia:

1. That § 15.1-267 of the Code of Virginia is amended and reenacted as follows:

§ 15.1-267. Circuit courts to order court facilities to be repaired.—A. When it shall appear to the circuit court of any county or city, from the report of persons appointed to examine the court facilities, or otherwise, that the court facilities of such county or city are insecure or out of repair, or otherwise insufficient, such court shall enter an order, in the name and on behalf of the Commonwealth against the supervisors of the county, or the members of the council of the city, as the case may be, to show cause why a ~~peremptory~~ mandamus should not issue, commanding them to cause the court facilities of such county or city to be made secure, or put in good repair, or rendered otherwise sufficient, as the case may be, and to proceed as in other cases of mandamus, to cause the necessary work to be done. The court shall cause a copy of such order to be served upon each supervisor or member of the council, as the case may be.

B. Upon the entry of such order, as provided in A hereof, the chief judge of the circuit shall forthwith notify the Chief Justice of the Supreme Court of the entry thereof. Upon receipt of such notice, the Chief Justice shall assign a judge of a circuit remote from the circuit wherein the repairs are alleged to be necessary to hear and determine whether the court facilities are in fact ~~in~~ a state of ~~disrepair~~ *insecure or out of repair or otherwise insufficient*, and the extent to which repairs, if any, are necessary.

Before a mandamus be issued, if the concerned governing body requests, the circuit court judge hearing the matter shall appoint a five member panel to review the court facilities in question and make recommendations to the circuit court judge concerning the construction or repairs deemed necessary.

1. Members of the panel shall include an officer of the Virginia Municipal League or the Virginia Association of Counties, an architect with experience in courthouse design, an experienced builder, one elected member of a local governing body located outside the boundaries of the judicial circuit in which the courthouse is located and one citizen who resides in the judicial circuit where the courthouse is located. The panel shall reflect a regional balance within the Commonwealth.

2. In making their recommendations, the panel shall consider matters such as, but not limited to, the following:

(a) Security provisions to safeguard court personnel, participants and the public;

(b) Efficient layout and circulation patterns to maximize public access, promote efficient operations, and accommodate the diverse users;

(c) The provision of administrative and service areas, judges' chambers, hearing rooms, conference rooms, prison holding areas, and public information areas; and

(d) The comfort, safety and obsolescence of the existing facility or any part thereof.

The existing facilities shall be considered in relationship to their location and the extent of their use, and their failure to meet any of these general considerations shall not necessarily be deemed a cause for determining them inadequate.

In making their recommendations, the panel may consult recognized national standard works in the field.

All costs, fees and expenses of the five member panel, after approval by the appointing judge, shall be paid by the county or city requesting their appointment.

C. If, after hearing, the court shall find that the court facilities are not ~~in~~ a state of ~~disrepair~~

insecure or out of repair or otherwise insufficient , or having been in a state of ~~disrepair~~ *such condition* , that the necessary repairs have been made, the court shall vacate the order. If the court shall find that the court facilities are in a state of ~~disrepair~~ *insecure or out of repair or otherwise insufficient* , it shall issue its ~~peremptory~~ mandamus as provided in A hereof.

D. Appeals shall be allowed to the Supreme Court of Virginia as appeals from courts of equity are allowed.

