

**REPORT OF THE  
ATTORNEY GENERAL**

# **Financing Collection Services**

**TO THE  
THE GENERAL ASSEMBLY OF VIRGINIA**



## **House Document No. 3**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
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September 1, 1987

The Honorable William F. Parkerson, Jr.  
President Pro Tempore  
Senate of Virginia  
State Capitol  
Richmond, Virginia 23219

The Honorable A. L. Philpott  
Speaker of the House  
Virginia House of Delegates  
State Capitol  
Richmond, Virginia 23219

Dear Senator Parkerson and Speaker Philpott:

The 1986 General Assembly requested the Attorney General to "test the feasibility of financing collection services through special revenues derived from the assessment of attorneys' fees" and to report the results to the General Assembly by September 1, 1987. The report that follows analyzes the results of the study and makes recommendations for future funding of debt-collection services.

Very sincerely,

A handwritten signature in dark ink, appearing to read "Mary Sue Terry".

Mary Sue Terry

2:44/276  
Enclosure

In 1982, Gerald L. Baliles, then Attorney General, recommended to the General Assembly that a unit be established in the Office of the Attorney General for the purpose of collecting obligations and debts owed to the Commonwealth. He believed that the systematic involvement of the Attorney General as a supplement to the internal debt collection efforts of State agencies would be cost-effective and would increase recoveries. He projected a \$2.2 million recovery for the 1982-84 biennium.

The Claims Section was established in the Office in early 1982, with a Senior Assistant Attorney General, two Assistant Attorneys General, one claims professional and two secretaries. In the next three years, two claims professionals and a secretary were added to the unit. The Section quickly exceeded the Attorney General's projection, collecting \$1,283,099 in 1982-83 and \$2,303,370 in 1983-84, or a total of \$3,586,469 in its first biennium of operation. By the 1984-85 fiscal year, collections had increased to \$2,866,073 on a budget of only \$254,856--or \$11.24 collected for every \$1.00 spent on the Section's operation. See "Collections by Fiscal Year," p. 8.

### **TERRY INITIATIVES**

Citing the success of the collection efforts as one of the major achievements of Governor Baliles' administration as Attorney General, Mary Sue Terry made debt recovery a high priority of her administration.

When Attorney General Baliles first proposed a collection section to the General Assembly in 1982, he estimated that the Commonwealth's past due receivables were \$100 million. By the fall of 1985, the Comptroller estimated that the amount of receivables more than 120 days past due was \$408 million. This increase was due, in part, to improvements in debt identification and reporting systems established by the Comptroller and the Attorney General but, nevertheless, clearly emphasized the need for expanded efforts in this area.

The experience of the Claims Section demonstrated a direct correlation between the amount of money collected and the amount of resources devoted to the collection effort. With that in mind, Attorney General Terry committed herself to building and expanding the existing debt collection capabilities of the Office. Since much of the money being collected was for special revenue funds, the Attorney General took the position that those special funds, rather than the General Fund, should be used to pay for any necessary expansion of services.

In order to meet this need for additional services, the Attorney General chose to expand the capacity of the Claims Section rather than to refer more cases to private attorneys. Such attorneys normally charge 25% to 33-1/3% of the amount collected. The Attorney General continued her predecessors' practice of referring appropriate cases to such attorneys but believed that her Office could handle most collection cases more economically.

In January 1986, the Attorney General therefore recommended to the General Assembly a pilot program to test the feasibility of limited self-funding of collection services through the

retention of attorneys' fees by the Office of the Attorney General. The General Assembly authorized a two-year program in which the Attorney General would enter into agreements with State agencies to collect debts on their behalf and retain up to 30% of amounts collected, and requested her to submit a report to the General Assembly on the results of the program by September 1, 1987 (Item 46 of the 1986 Appropriations Act).

The pilot project was designed to place the cost of collection services on the agencies and funds generating the accounts. It was also intended to provide another incentive for agencies to pursue more aggressively internal collection efforts.

### **PROJECT DESCRIPTION**

The action plan developed for the two-year pilot project established an overall goal of maximizing the collection of debts owed to the Commonwealth. The Attorney General's operational mandate was to expend the Section's resources based on cost effectiveness. A number of management changes, therefore, were made in the Section to direct its resources to those cases with the highest potential return for the Commonwealth as a whole, not necessarily for specific agencies.

The specific goals set forth in the plan were to collect \$1,415,000 and earn \$100,000 in attorneys' fees during the last six months of fiscal year 1985-86, and to collect \$5,000,000 and earn \$350,000 in attorneys' fees during the 1986-87 fiscal year. As indicated below, both of these goals were far exceeded.

## TARGET AGENCIES

The Attorney General decided that the primary focus of the pilot project would be the State Education Assistance Authority ("SEAA"), because there was an existing fee arrangement with SEAA and the fees paid for SEAA collections were paid from federal money. Four other agencies were identified for fee agreements: the Department of Transportation, the Department of State Police, the Industrial Commission, and the Medical College of Virginia Hospitals. These other four agencies were chosen because of the nature of their receivables and the potential savings to the agencies by having their accounts collected by the Office of the Attorney General rather than referred to private counsel.

A total of \$116,012 was paid to the Office of the Attorney General in attorneys' fees in the last half of 1985-86. In 1986-87, \$428,743 was paid. The majority of these fees were from debts paid to SEAA. Since there is a 30- to 60-day delay in the receipt of fees from SEAA, the actual fees earned during the period were somewhat higher than the fees paid.

## USE OF FEES

During the pilot project, the staff of the Claims Section was expanded from nine full-time employees to twelve full-time employees. An additional attorney, a claims representative and a paralegal were added to the staff. In addition, the Section made judicious use of hourly employees. A part-time docket clerk was hired to schedule and keep track of the numerous court appearances. An hourly attorney and law students were hired to process cases. These measures have proven to be both cost-effective and beneficial. The additional positions were not intended

to enable the Section to handle more accounts but, rather, to handle the existing volume of approximately 5000 accounts more effectively.

The Attorney General contracted with the Department of Information Technology ("DIT") to assess the changes needed in the current Claims Section computer system in order to provide for efficient case handling and information processing and to ensure the integrity and security of the system. The original automated system was developed in 1983. It was based on the work load and operational needs of the Section at a time when it had a work load of only 1500 cases. This former system was basically a general ledger system that has been modified piecemeal over the past four years to meet specific problems. The system needs a comprehensive upgrade to handle a burgeoning work load of more than 5000 cases and to enhance the Section's productivity.

The study by DIT resulted in a general design for a new system. The new system will not only automatically generate demand letters and pleadings but will provide automatic case status reports for the client agencies. It will have enhanced word processing applications that build upon the data processing and management information features of the basic system. The resulting integrated system will provide complete automated support for the specialized debt collection process.

The Office is currently seeking proposals from qualified vendors to implement the new system. It is estimated that the project will cost between \$100,000 and \$150,000, and will be fully operational by May 1988.

## RESULTS

The results of the management initiatives and additional resources of the pilot project are most impressive.

In 1985-86, the Section collected \$3,768,919, a 32% increase over the previous year. In 1986-87, the section collected \$6,166,524, a 63% increase over 1985-86 and more than double (115%) the amount collected in the year preceding the project.<sup>1</sup> See "Collections by Fiscal Year," p. 8. The attorneys' fees earned in 1986-87 were sufficient to cover the \$474,348 in operating costs for the Section.

The most surprising result of the project was the increase in the cost-benefit ratio--from \$11.24 collected for every \$1.00 spent for operating costs for the Section in 1984-85 to \$13.00 for every \$1.00 in operating costs for 1986-87. It was expected that the Section would increase overall collections but, in doing so, would reach more hard core debt, making it much more difficult, if not impossible, to sustain the previous cost-benefit ratio. While there is no doubt that such a point of diminishing return will be reached at some point, it appears from the types of cases currently being handled by the Section that the ratio of increased collections versus dollars spent in operating costs can be maintained for the foreseeable future.

## RECOMMENDATIONS

The dramatic increase in the amount collected along with the continued favorable

<sup>1</sup>In addition to these in-house collections, private counsel, supervised by the Claims Section, collected \$425,204 in 1985-86 and \$385,069 in 1986-87.



cost-benefit ratio makes it clear that it is in the Commonwealth's interest to make the recovery of its receivables a high priority.

Furthermore, it has been the Claims Section's experience that the success of agency collection efforts depends in large part on the skills of the employees who administer debt recovery services. Consequently, there is a need to ensure that agency personnel are properly trained and provided with appropriate technical assistance.

Therefore, the Attorney General recommends the following:

1. The cost for collecting receivables should be borne by the debtor. In those cases where recovery from the debtor is not possible, the agency generating the account should pay for the Attorney General's costs in collecting the debt.
2. The Attorney General should retain those fees collected to finance further collection efforts and to provide agency training and assistance.
3. The fees charged each agency should reflect the effort and cost to recover the debt and should not exceed a maximum of 30% of the receivable collected.

The General Assembly directed the Department of Planning and Budget, the Office of the Attorney General, the Department of Accounts, and the Department of Taxation to conduct a comprehensive review of the Commonwealth's accounts receivable with a final report due to the General Assembly by November 15, 1987. Further recommendations on debt collection will await presentation of that report.

## Collections by Fiscal Year

