

**FINAL REPORT OF
THE COMMISSION STUDYING**

**Local and State
Infrastructure Needs
and Revenue Resources**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



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**COMMONWEALTH OF VIRGINIA
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The Honorable Clive L. Duval, 2d, *Vice Chairman*
The Honorable C. Richard Cranwell
The Honorable David G. Brickley
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**Final Report of the Commission Studying
State and Local Infrastructure Needs and
Revenue Resources
To
The Governor and the General Assembly of Virginia**

Richmond, Virginia
January, 1992

TO: The Honorable L. Douglas Wilder, Governor of Virginia,
and
The General Assembly of Virginia

I. AUTHORITY

House Joint Resolution No. 432 of the 1989 Session of the General Assembly established this Commission to study infrastructure needs, revenue resources, tax authority, and tax capacity of local governments (Appendix A). In 1990, House Joint Resolution No. 205 added two members to the Commission. (Appendix B). The members of the Commission are as follows: Delegate Gladys B. Keating, Chairman, Senator Clive L. Duval, 2d, Vice Chairman, Delegate C. Richard Cranwell, Delegate David G. Brickley, Delegate Willard R. Finney, Delegate Clinton Miller, Delegate Robert K. Cunningham, Sr., Senator Charles J. Colgan, Senator Madison E. Marye, Senator Robert E. Russell, Mayor Joseph A. Leafe, John G. Dicks, Lee Broughton, Steven W. Pearson, Robert T. Skunda, Betty S. Thomas, and Beverly T. Fitzpatrick.

Senate Joint Resolution No. 74 of the 1990 Session requested that the Commission also examine the need for regional stormwater detention systems and methods of financing such systems (Appendix C). The Commission issued an interim report to the Governor and the 1991 General Assembly which was published as House Document No. 47. The interim report reviewed the work of this Commission through 1990 and presented its findings during the first two years of its work.

II. THE IMPORTANCE OF INFRASTRUCTURE TO AN ECONOMY

Investment in capital projects, or infrastructure, is one of the most important expenditure decisions undertaken by the public sector. Adequate infrastructure facilities, such as roads, schools, parks, and sewer facilities, just to name a few, serve to enrich the quality of life in a community and to enhance the well-being of its citizens. Investment in these essential public facilities allows a locality to attract businesses, which will ensure economic growth in the area by creating jobs, increasing productivity, and generating much-needed tax revenue. A

lack of infrastructure funding will jeopardize the most important elements necessary for long-term growth: the education of our children, the health, welfare, and safety of the public, economic development, and the over-all quality of life in Virginia.

Despite the necessity of adequate spending on infrastructure, Virginia's localities, like hundreds of localities across the country, may be forced to cut capital spending. Local governments are struggling to provide these important public facilities, but must contend with severe budget crises. Unfortunately, when state and local governments are faced with declining revenues, infrastructure spending is often reduced in an attempt to balance budgets. During the three years of this Commission's study, Virginia faced what Governor L. Douglas Wilder has described as the worst fiscal crisis since World War II. State aid to localities has been reduced in order to help meet the state's revenue shortfall. Revenue forecasts for the next biennium continue to estimate slow economic growth, and, therefore, increased aid to localities in the next two years is unlikely. Given the dismal fiscal outlook for Virginia in the near future, state and local officials may have to continue reducing capital spending in order to meet operating costs.

Some experts are calling this underinvestment in infrastructure the nation's third deficit crisis, believed to be as important as the budget and balance-of-trade deficits. How Virginia responds to this crisis will determine its competitiveness in the 21st century. According to David A. Auscher, Senior Economist of the Federal Reserve Bank of Chicago, the major indicator of how competitive an economy will be is how its infrastructure is maintained and enhanced. Productivity and economic growth will be determined by the rate at which the government chooses to add to its stock of highways, ports, airports, and other facilities which increase the production and distribution of goods and services.

The past few decades has proven this importance of infrastructure investment. As Auscher reports, federal spending as a percentage of GNP has risen over the past thirty years, but spending on infrastructure has declined. In 1960, infrastructure investment accounted for 24.3 percent of federal spending, but by 1990, such investment accounted for a mere 11 percent of the federal budget.

Other industrialized countries, however, have invested substantially in public works. As a result, output per worker has been much higher abroad. Auscher uses Japan as an example, where the 5.1 percent of the country's output has been invested in capital projects during the past few decades. Japan has achieved a growth in productivity of 3.1 percent annually as a result of this substantial investment in public works. The United States, on the other hand, devoted only .3 percent of its output to public investment, and has, consequently, realized a weak .6 percent gain in annual productivity.

By investing in the highly productive infrastructure projects, a locality can make its private sector more efficient, reports James A. Bacon, a writer for *Virginia Business*. Mr. Bacon reports that a one

percent increase in infrastructure capital raises the rate of return on private capital by .1 percent, thereby making the locality more attractive to the corporate world.

Given the substantial benefits of infrastructure, from improving the health, education, and welfare of Virginians to making the Commonwealth competitive in the national and international marketplace, it is plain to see that an underinvestment in infrastructure could have extremely undesirable consequences. The Commission was mindful of such consequences, and worked diligently during its tenure to address the problem of adequate infrastructure funding. In the dire fiscal situation, however, the Commission did not consider any proposals that called for tax increases. Rather, the members focused on alternate sources of funding. The Commission also investigated how localities could provide infrastructure more efficiently. This final report fully encompasses the findings and recommendations concerning sufficient investment in infrastructure, which the Commission viewed as a matter of utmost importance for the Commonwealth.

III. THE IMPORTANCE OF INFRASTRUCTURE TO VIRGINIA'S STATE AND LOCAL GOVERNMENTS

Virginia was the fifth fastest growing state in the nation during the 1980's. Accompanying this increase in population was an increase in personal income as well, which provided Virginia with the necessary tax revenue to fund the infrastructure facilities demanded by its growing population. In fact, Virginia's growth in personal income outpaced the national increase in personal income during the 1980's. While the Commonwealth was able to provide adequate public works facilities during the past decade of economic growth, the outlook for the 1990's does not appear to allow the same spending level. Economists are predicting that Virginia will lag behind the nation in its recovery from the current recession.

As a result of the larger population and the smaller growth in revenue, local governments have seen a growing portion of their budgets being allocated for the construction and maintenance of transportation, water, sewer, education, and other public facilities. Localities will be hard pressed to continue providing such facilities, given the severity of the current recession. Although the Commission was created in a time of relative prosperity, its work and its recommendations are even more important to localities now as they struggle to survive the present economic downturn.

The pattern of population growth during the 1980's created different economic and demographic situations across the Commonwealth. The growth was concentrated in what's referred to as the corridor, which extends from Northern Virginia through Richmond to the Hampton Roads area. In fact, 90 percent of Virginia's population growth has occurred in the corridor. This concentration of population caused the high-growth areas to experience difficulty in meeting the increased demand for services. Areas that lost population experienced problems as well, although their difficulties are of a different nature.

High growth areas are struggling to provide additional public facilities necessary to serve the exploding residential and commercial base. The growing localities experience growth in school-age population that outpaces the construction of new schools. The localities attempt to build schools fast enough to keep up with the demand for more classrooms. The demand for educational facilities has put a strain on the finances of high growth areas, and consequently, education is the second-largest area of infrastructure need over the next five years. Approximately \$1.4 billion in need for educational facilities have been identified by these localities.

Transportation is by far the largest category of need among high growth areas. Roads are the most apparent public facility, the one more individuals interact with on a day-to-day basis. Adequate highways and secondary roads aid in the distribution of goods and services, which, in turn, keeps the economy open and running smoothly. Transportation projects account for over 80% of the infrastructure need for high growth localities, although such localities also face funding difficulties in solid waste removal and ever-increasing needs for water and sewer facilities.

In contrast to growing areas, growth in many localities outside the corridor has either come to a standstill or begun slowly to decline. During the 1980's almost half of the 104 localities outside the corridor lost population. Over this period Fairfax County alone added three times more population than all of non-corridor Virginia. Although slower-growth localities do not experience fiscal hardships caused by an increase in population, they do experience hardships associated with declining tax bases. As localities lose their workers and businesses, it becomes more and more difficult to provide infrastructure to the remaining citizens. Many of these localities outside the corridor are faced with the insurmountable difficulty of retaining jobs, keeping their young people, and delivering needed public services.

Most of Virginia's older central cities are among those localities experiencing such difficulties associated with slow declines. Richmond, for example, declined from a peak of 249,000 in 1970 to 210,000 in 1990. As businesses and the middle class locate in the suburbs, central cities are left with stagnant or declining tax bases to provide expensive services for their residents. Central cities must contend with the high cost of rebuilding and replacing antiquated infrastructure in the light of fiscal stress caused by the uncertain tax base. Roads, education, water, sewer, and solid waste facilities are infrastructure projects that central cities, along with the high growth areas, require.

Like the central cities, rural communities must also contend with low tax bases. The main concern with rural areas is providing the basic infrastructure which will enable them to attract industry and to offer quality public services vital to growth. Although rural areas recognize the need to improve their roads, transportation infrastructure projects are not the primary concern for them at the present time. Rural localities reported that they need the greatest amount of capital investment for education, which would improve the quality of their workforce.

Floyd County is a good example of a rural community with a low tax base that is searching for ways to meet its infrastructure needs. Floyd County must rely increasingly on a static tax base, its property. Most of Floyd County's residents commute outside the locality to work and spend much of their money outside the county. This endangers local businesses and reduces the amount of state sales tax Floyd receives based on point of sale. Also, Floyd has an increasingly older population, which has reduced the amount the county can receive from the state sales tax based on school-aged population. Floyd County, along with most rural localities, has few sources of revenue aside from the property taxes.

Even in robust economic times, financing infrastructure projects is a common concern for all localities. However, as mentioned earlier, Virginia's financial difficulties have made infrastructure funding even more problematic for localities. During the course of its study, the Commission searched for funding options that would help local governments in their time of fiscal distress. Since the public infrastructure needs of Virginia's local governments vary widely across the Commonwealth, there is not likely to be one option that would satisfy the diverse needs of the localities. Therefore, the Commission examined numerous funding options in its search for ideas that would aid the most localities. The Commission's work during the first two years, and their initial recommendations, are outlined in the following section of this report.

IV. COMMISSION ACTIVITIES THROUGH JANUARY, 1991: AN OVERVIEW OF THE 1991 INTERIM REPORT

The first year of the Commission's study was spent, for the most part, gathering data on infrastructure needs of Virginia's localities. The members decided that ascertaining localities' needs was a prerequisite to undertaking their charge of determining revenue options. A special panel of county and city representatives was created to help the Commission design an infrastructure questionnaire. The questionnaire, which was sent to each locality, asked a series of very detailed questions regarding future infrastructure needs, past infrastructure spending, means of funding the projects, areas of funding shortfall, and local revenue sources.

The questionnaire was sent to the localities three times throughout the year in an attempt to solicit the highest possible response rate. Localities that responded to the questionnaire, 29 cities and 50 counties, comprise approximately 80 percent of the population of the Commonwealth. The responding localities reported that they would require \$12.2 billion in infrastructure funding during the period 1990 to 1994. Roads, at 30 percent of the total need, comprise the largest area of infrastructure need, followed by education at 20.5 percent (See Table 1).

TABLE 1
LARGEST AREAS OF NEED
(in millions of dollars)

<i>Area</i>	<i>Funding Needs for 1990-1994</i>	<i>Percent of Total Need</i>
1. Roads	\$3,675	30.03%
2. Education	\$2,508	20.50%
3. Sewer	\$1,102	9.01%
4. Water	\$1,063	8.68%
5. Solid Waste	\$ 651	5.32%

Local governments reported that they will be able to fund about \$7.7 billion, or 63% of their infrastructure needs by 1994. The portion of needs that will not be funded, the infrastructure gap, is estimated to reach \$4.5 billion. The areas with the largest funding gaps are identified in Table 2. The infrastructure gap, which economists have described as one of the top three crises facing the nation, may be understated by the findings of this Commission. The understatement of the problem results from the fact that the infrastructure surveys were completed before the economic downturn had fully developed. The fiscal situation in 1991 was much more severe than in 1989 when the Commission began its work. Therefore, the reported gaps in funding are likely to be quite large compared to what localities reported nearly three years ago.

TABLE 2
AREAS WITH THE LARGEST INFRASTRUCTURE FUNDING GAPS

<i>Area</i>	<i>Percentage Funding Gap For 1990-1994</i>
1. Roads	50.4%
2. Education	14.2%
3. Sewer	6.6%
4. Other Transportation	3.8%
5. General Government	3.1%

The increasing infrastructure needs among the localities, which prompted the establishment of this Commission, were apparent in the data retrieved from the questionnaire. In fact, infrastructure spending has risen by 302% since 1984. Table 3 denotes the areas which have had the largest increases in infrastructure spending during the past seven years.

TABLE 3
AREAS WITH THE LARGEST INCREASES IN NEEDS

<i>Area</i>	<i>Percent Increase In Since 1984</i>
1. Fire/Rescue	638%
2. Education	506%
3. Water	464%
4. Drainage	328%
5. Sewer	290%

Although the questionnaire data provided the Commission with information about infrastructure spending trends, areas of need and areas of shortfall, and differences in infrastructure needs among the localities, the data should be used with a great deal of caution. The figures reported by the localities and compiled by the Commission are rough estimates rather than exact numbers, since the localities did not interpret the questions in the same manner. Some reported only the infrastructure projects that they thought they could afford, and some listed all the projects that they would like to undertake if they had the funding.

Regardless of the downfalls of the questionnaire technique, it remains one of the most widely-used methods of gathering information. Results from the questionnaires, although inexact, provided the Commission with valuable information about the magnitude and categories of need. The results from the questionnaire are similar to results from numerous studies conducted in other states and by many national organizations. The Commission therefore regarded its survey results as a suitable starting point for undertaking their charge of determining infrastructure financing methods.

During the second year of its work, the Commission focused more on determining ways to help localities address their infrastructure funding problems. The Commission began by determining how state and federal mandates affected the cost of infrastructure projects, and whether or not anything could be done to minimize these costs. Numerous speakers addressed the Commission, with their overall sentiment being that most of the mandates were sensible and necessary and should not be suspended. Instead, many suggested that flexibility in meeting the requirements would help localities. Even the federal mandates have state-imposed compliance deadlines, and localities felt that extensions of the deadlines would make the mandates less burdensome.

In 1991, legislation relaxing compliance deadlines was passed in an effort to give localities the flexibility they requested. This legislation represents the continuing commitment that the Commission, and other study subcommittees like it, has made to helping localities through the current fiscal hardships.

Other revenue resources considered by the Commission in 1990 include: equal taxing authority for both cities and counties, a local income tax, year-round school systems, road bond authority for more localities besides just Chesterfield and Fairfax Counties, half a percent of the sales tax, impact fees, regional cooperation in capital projects, stormwater utility fees, privatization of public facilities, and transferable development rights. The Commission recognized the merit of many of these ideas, and wanted more time to study the issues further before making any final recommendations.

V. AREAS FOCUSED ON DURING THE FINAL YEAR

Given the dismal fiscal and economic outlook, the Commission did not consider it an appropriate time to recommend any proposals that called for tax increases. Rather, they chose to focus primarily on ways to make the available money go further, allowing localities to receive the highest return on their investment. By constructing and operating facilities more efficiently, local governments could better survive the economic downturn while at the same time provide infrastructure investment that is vital to long-term growth.

The following alternatives were the primary areas of interest to the Commission: regional cooperation of infrastructure facilities, privatization of public facilities, stormwater management utility fees, and reestablishment of the former Revenue Resources and Economic Commission.

A. Regional Cooperation

Regionalization of facilities is an option available to localities when deciding to undertake an infrastructure project. Virginia's metropolitan areas are divided into many jurisdictions, each providing public works to its own population. This duplication of services among adjacent localities increases the costs of infrastructure. Regional cooperation allows several localities to take advantage of economies of scale of a project. Taking advantage of economies of scale reduces the cost of a project in two ways: unnecessary duplication of services is eliminated, and the burden of financing the project is divided among the localities.

The potential state-wide savings from regional cooperation has not yet been estimated. However, a 1987 study estimated that through regional cooperation the eight localities around Richmond could save anywhere from \$1.2 billion to \$1.7 billion a year by 2010. Similar savings are likely in other regions throughout Virginia. The Commission would like to encourage such regionalization of infrastructure as an efficient way of reducing costs.

Local politicians may be reluctant to relinquish power to regional authorities, but lean economic times may impel them into supporting such cost-saving approaches. Unwillingness to work their neighbors would jeopardize the quality of basic services, thereby endangering the physical and emotional health of the citizens and the economic health of the economy.

The Commission's findings indicate that regional approaches to infrastructure projects could benefit the Commonwealth considerably. Studies have shown that regional facilities have the capability to ease the funding burden on localities, and the Commission would like to create incentives for localities to undertake such projects.

B. Privatization

Privatization and public/private partnerships are financing methods for infrastructure projects that have gained popularity throughout the country in recent years. To overcome fiscal hardships, public and private sectors have joined together in record numbers to provide badly needed infrastructure. Although the responsibilities of public and private sectors vary among projects, public-private partnerships have one central strength: they utilize the best of each sector to undertake projects that neither could alone provide.

The Commission heard testimony from a variety of private corporations, local officials, and concerned citizens regarding the privatization of public facilities. Economists from Price Waterhouse, a leading international accounting and consulting firm, spoke at length to the Commission about the numerous privatization projects in which they have participated. The Commission sought the expertise of Price Waterhouse's consultants who work in the firm's growing practice specializing in privatization.

Because public-private partnerships benefit both the public and private sectors, such partnerships have become a popular approach to providing infrastructure. The appeal of privatizing some portion of the construction, maintenance, and operation of facilities is straightforward: it provides needed infrastructure at a time when government resources are constrained. The substantial potential benefits of privatization are as follows:

1. New Capital:

The demand for infrastructure construction has increased dramatically in recent years. Unfortunately, state and local budgets have not increased as much as the need for infrastructure, which has caused governments to search for new ways to fund the capital projects. The injection of new private capital into public infrastructure projects would provide the public with the funding necessary to undertaking the projects.

2. Efficiency and Speed:

New facilities may be provided by the private sector more quickly and at a lower cost. However, with large projects, government regulatory cooperation is crucial to timely completion of projects.

3. Revenue Enhancement:

Private construction, financing, and operation of infrastructure projects may expedite the collection of user-charges and other fees, thereby increasing the financial resources available for new infrastructure. This is particularly important in states with constitutional revenue or budget restrictions.

4. Allocation of Risk:

The public sector may benefit from the allocation of risk to the private sector. The government may undertake infrastructure projects that it would not have considered without some form of financial risk-sharing.

Public-private partnerships can be tailored to each projects, to reflect its unique need for public or private strengths. The private sector offers new initiatives, new capital, speed, efficiency, innovative revenue sources, and risk-sharing. The public sector's strengths include stable administrative structures, oversight, consolidated review, inexpensive capital, eminent domain, taxing powers, and reliable, broad-based revenue sources. To be successful, a partnership requires a mix of the contributions of each sector; the appropriate mix of contributions would be dictated by the type of project to be undertaken.

In Virginia, as in other states, localities are beginning to recognize the merits of privatization. For example, the private toll road planned for Loudoun County is a ground-breaking project that the rest of the country will be watching. Toll roads are good projects for privatization because there is a recognizable user fee associated with them. Private companies are more likely to invest in a project that has an obvious user fee because there is a greater likelihood of seeing a return on the investment.

Other possible privatization projects include toll bridges, bridge extensions, and landfills and similar facilities that can charge a fee for their services. Also, high density mass transit projects in growing areas are good projects to share in a public/private partnership. Before undertaking any project, however, demand for the facility must be assessed. If demand is lacking, no project will succeed.

Other states, such as North Dakota, Pennsylvania, Texas, Colorado, California, Illinois, Florida, Missouri, and New York, have recognized the benefits of privatization and have begun implementing infrastructure plans involving both the public and private sector. The

countries of Great Britain, Argentina, and Pakistan have also begun investigating projects that are likely candidates for privatization. Governments are beginning to realize that they may need help from the private sector in providing necessary infrastructure.

Virginia has been extremely successful in establishing a public-private partnership. In 1990, the Chambers Development Corporation joined forces with Charles City County to open one of the nation's most sophisticated municipal solid waste landfills. The Commission was interested in how this partnership came about, the obstacles it faced, and the benefits it has provided. The Commission requested testimony from Charles City County and from Chambers Development Corporation so that it could examine the financing, implementation, and economic benefits of a privately-operated landfill.

Chambers Development Corporation entered into a lease-purchase agreement with Charles City County, whereby Chambers would design, construct, own, and operate the landfill. The county will resume ownership of the site twenty years after it closes--approximately forty-five years from now.

The 289-acre landfill facility is located on a 934-acre site that is relatively isolated from the rural communities of Charles City County. Currently operating an 8.5-acre cell, the landfill accepts about 700 tons of waste from the county and from Richmond daily. When fully operational, the facility will take up to 2,000 tons per day, with a capacity of 25 million tons. It is the first landfill to meet Virginia's stringent new landfill regulations, and in some cases, exceed them.

Public opposition to the landfill was strong initially, but Chambers' environmental integrity eventually won the residents' support for the facility. The landfill was constructed with a double-liner system, consisting of two synthetic liners, a soil barrier, and drainage layers for leachate (run-off from the waste) collection. The primary layer is monitored by a secondary leachate collection system between liners, and the groundwater is monitored by a series of wells. Leachate is transported and treated at a sewage facility in Richmond.

To further convince residents that Chambers was environmentally sensitive, the corporation installed recycling bins for paper, glass, and aluminum in the facility. Chambers ensures safe water supplies by sampling and analyzing the surface waters of the Chickahominy River. Also, only non-hazardous household wastes are accepted at the landfill. An electronic sensing device is used to detect chemical vapors in loads of solid waste. If any trace of hazardous waste is detected, the load will be rejected.

Charles City County's private landfill is an example of how a locality can benefit from privatization. Before the Charles City considered the option of privatization, the county was in a desperate financial situation. Space in their landfill was running out, and the state was moving toward adopting more stringent solid waste facility

requirements. The county was faced with a minimum expenditure of \$1.5 million--the sum of their real estate taxes--just to meet the county's landfill needs. Charles City had other infrastructure needs as well, such as a new school, and was already searching for ways to finance these needs.

Since Charles City already had one of the highest real estate tax rates in Virginia, few revenue-raising options were available to the county. The desperate need for school construction and improvements was an important factor in the county's decision to go ahead with the landfill. Chambers guaranteed Charles City an annual host fee of \$1.14 million, which allowed the county to increase its annual tax revenues from \$1.8 million to almost \$3 million. With the increased revenues, the county was able to construct the badly-needed schools while simultaneously decreasing its real estate tax rate from \$1.29 to \$1.05. In addition to these benefits, Charles City County receives free solid waste disposal for the lifetime of the landfill, and is entitled to a percentage of the tipping fee that Chambers charges its other customers.

Chambers established three funds to secure the viability of the landfill. One fund is a \$100,000 annual fund to be used by the county for the hiring of independent engineers to oversee operations at the landfill. A second fund of \$2 million is also available to the county in case of an accident or lawsuit. The third fund is based on the costs of closing the landfill, should the county have to assume responsibility in the event of default by Chambers.

The landfill provided Charles City County with a much-needed revenue source, as well as a safe, efficient solid waste removal facility. The Commission would like to encourage other regions of the Commonwealth to undertake such public-private partnerships to help them meet infrastructure needs in these tough financial times. Landfills are feasible projects for public/private partnerships because demand for their services is steady and because the tipping fees can help recover some of the investment costs of the company. Privatization is an option that the Commission would like localities to take advantage of when planning capital improvements.

C. Stormwater Management Utility Fees

Senate Joint Resolution No. 74 of the 1990 Session requested that the Commission examine the need for regional stormwater management systems and methods of financing such systems. The Commission heard testimony regarding stormwater management systems from the Virginia Association of Counties, the Virginia Municipal League, Northern Virginia Planning District Commission, Radco Planning District Commission, and several other interested organizations. Most of the testimony favored utility fees as a feasible funding mechanism for stormwater systems.

The establishment of stormwater utilities is a concept that has achieved growing popularity in the Western and Midwestern United States over the past 15 years and is now beginning to catch on in the Southeast. Some engineers are even describing the stormwater utility

as one of the most exciting recent developments in urban stormwater management. A stormwater utility fee can be used to implement comprehensive local drainage programs for flooding and erosion control. Furthermore, such a utility can be used to meet water quality control requirements for stormwater discharges.

The stormwater utility is designed to improve local drainage programs while relieving pressure on the general fund. The utility involves creating a continuous funding source by designating stormwater management as a utility, just as water, sewer, gas, and electricity are considered public utilities. The stormwater utility would be charged to all property owners on a monthly or quarterly basis to cover annual operation costs and a portion of capital costs of local stormwater management programs.

This new revenue source could enable localities to phase out general fund contributions to local stormwater management programs and to rely on revenue bonds for the program's infrastructure needs. The utility fees would provide the local government with adequate revenue to construct, operate, and maintain stormwater management facilities.

Fundamental to any utility user-charge system is the test of equity and fairness. This utility program may be more equitable than reliance on general fund revenue, since costs for each landowner are based upon the usage of the drainage system. The stormwater utility fees could be based on how much each parcel of land contributes to the problem of stormwater runoff. Since residential property contributes less to the problem than do commercial and industrial property, home-owners would be assessed a lesser fee to reflect their relatively small usage of the drainage system.

Stormwater management facilities are similar to wastewater systems, which also rely on utility fees for funding. Moreover, stormwater facilities have additional benefits that other facilities may not provide. For example, stormwater facilities enhance the quality of life for all property owners, regardless of whether they live in the upstream or downstream end of a watershed. Such pervasive quality of life improvements include: making productive use of the water by creating parks, lakes, irrigation systems, and reservoirs; keeping streets open to emergency vehicle traffic; and achieving the goals of the 1989 stormwater management law, the Chesapeake Bay Preservation Act, and EPA flooding and erosion control requirements.

Many Southeastern states have recognized the advantages of stormwater utilities and have begun to implement the beneficial programs. Seventeen localities in Florida have taken steps to establish a stormwater utility, and in 1989 the North Carolina General Assembly enacted enabling legislation for local stormwater utility fees. Several localities in Kentucky have been successfully operating stormwater management facilities, funded by a utility fee, since 1986. The utility allows Kentucky to operate and maintain a flood protection system that prevents flooding from the Ohio River. Services provide range from basic catch basin cleaning to operation and maintenance of several of the world's largest flood pumping stations.

The Commission's study of stormwater utility fees lead to the passage of House Bill 1770 in the 1991 General Assembly Session. House Bill 1770 gave localities the authority to finance stormwater management programs using the utility fee. This utility fee can benefit localities by allowing them to recover the costs associated with the following:

1. The acquisition of real and personal property necessary to construct, operate, and maintain stormwater control facilities;
2. Administration of the programs;
3. Engineering and design, debt retirement, construction of new facilities, and enlargement or improvement of existing facilities;
4. Facility maintenance;
5. Monitoring of stormwater control devices; and
6. Pollution control and abatement.

Under this new authority, localities are allowed the flexibility to establish the stormwater utility fee program in any manner they choose. However, successful programs in other states could serve as a pattern for Virginia localities. Current economic conditions call for innovative funding mechanisms for infrastructure, and the stormwater management utility fee is a new option that has benefitted numerous localities in the Southeast. The utility is a viable alternative revenue source that can now help Virginia localities meet their needs as well.

D. Reestablishment of the Former Revenue Resources and Economic Commission

During the second year of its study, the Commission expressed interest in the activities of the former Revenue Resources and Economic Commission. Given the need for adequate resources for infrastructure, the members felt that examining resources should be continued by the Commonwealth even after the Commission has completed its work. A new Revenue Resources Commission could pick up where the Infrastructure Commission left off. In its interim report, the Commission recommended that, during the final year of its work, substantial attention be given to the consideration of reestablishing the Revenue Resources Commission.

Throughout 1991, the Commission examined all aspects of the Revenue Resources Commission to decide the feasibility and desirability of reestablishing such a Commission. The former Revenue Resources and Economic Commission was created in 1968 by SJR No. 15, and dissolved as a permanent state agency in 1980. The Commission was chaired by Senator Leroy Bendheim of Alexandria, and issued its first report to the 1972 Session of the General Assembly. The initial report examined the following:

1. Increasing the individual income tax rate from 5.75% to 7% and the corporate tax rate from 5% to 6%;

2. Eliminating the exclusion for dividends paid by Virginia corporations;
3. Extending the sales tax on services;
4. Exempting food and nonprescription drugs from the sales tax;
5. Increasing state aid to localities.

The Revenue Resources Commission became a permanent state agency in 1974 but was abolished in 1980. During its existence, the Commission examined numerous state and local resources as well as the long-term trends of state revenues and expenditures. The Infrastructure Commission discussed at length the benefits and drawbacks of the Revenue Resources Commission.

The new Commission could address the ongoing problem of determining revenue resources, could continue to examine financing methods after the Infrastructure Commission has completed its work, and could serve to coordinate the efforts of the staffs of the Senate Finance Committee and the House Appropriations Committee. Continuing the examination of revenue resources is important because the need for infrastructure expenditures will be a continuing problem confronting the localities for many years to come.

VI. CONCLUSION

Investment in infrastructure is one of the most important expenditure decisions undertaken by the public sector. Adequate infrastructure facilities, such as roads, schools, parks, and sewer facilities, serve to enrich the quality of life in a community and to enhance the well-being of its citizens. A healthy economy is motivated by infrastructure investment, and neglect of such investment will jeopardize economic growth, as well as the education, health, welfare, and safety of all Virginians.

Unfortunately, the current recession has forced many of Virginia's localities to cut spending in many areas, including infrastructure. Local governments are struggling to provide these important public facilities, but must contend with severe budget crises. Given the dismal fiscal outlook for Virginia in the near future, localities may have to continue reducing capital spending in order to meet operating costs.

In order for Virginia to protect its investments and citizens and to promote economic growth, the state and local governments will have to explore innovative financing plans. The burden of providing infrastructure is expected to increase during the latter part of the 1990's. Meeting the infrastructure needs will require stable revenue sources and reliable funding mechanisms. Former Secretary of Finance Stuart W. Connock warned that localities will not be able to rely on their current sources of revenue to meet the increasing need for infrastructure investment. Mr. Connock also cautioned against a medley of local option sales and other taxes because they will not fulfill the long-term infrastructure needs. Alternate revenue resources are clearly called for.

Given the financial condition of Virginia's localities and the increasing burden that infrastructure has placed on them, it is necessary to identify options for raising revenue. The Commonwealth and its localities must seek to maximize the use of certain financing tools, such as privatization, regional cooperation, and utility fees. Although the appropriated funds for the Infrastructure Commission have been exhausted over the three years of work, there still remains much to do to help localities meet their infrastructure needs. The important charge of determining new financing methods could be continued by the reestablishment of the former Revenue Resources and Economic Commission.

Secretary of Economic Development Lawrence Framme suggests that the downturn in infrastructure spending is cyclical and temporary, and that Virginia's economy is fundamentally sound. Most economists would agree that Virginia has enjoyed strong economic strength in the past, and that the problem of infrastructure is cyclical in nature. However, competition among communities for private investment is perpetual. Localities and states that adopt new revenue resources now will have an advantage over those that wait for the recession to end.

Employing innovative methods of infrastructure may enable the localities to close the \$4.5 billion infrastructure gap reported on the Commission's questionnaire. By relying on current revenue streams or by waiting out the economic downturn, localities may worsen their ability to fund infrastructure. However, by involving the private sector, by charging utility fees, or by working with neighboring jurisdictions, localities could prepare themselves for long-term economic growth, while at the same time improve the quality of life for its citizens.

VII. RECOMMENDATIONS

1. Establish a revolving loan program for solid waste facilities.

The Virginia Resource Authority has revolving loan programs for waste water facilities and for drinking water programs. In order to help localities meet their solid waste infrastructure needs as well, the Commission recommends the establishment of a revolving loan program for solid waste facilities. The new program would be administered by the VRA and be similar to the existing programs for wastewater and drinking water.

In addition, the Commission would like to encourage privatization of the projects by allowing localities to be eligible for the loans even if some portion of the project is contracted out to private firms. Also, within the language of its proposed legislation, the Commission wants to emphasize the fact that the provisions of the loan program do not preclude localities from undertaking regional projects. The Commission is hopeful that the additional loan program will enable localities to meet more of their infrastructure needs. A copy of the legislation implementing this recommendation is attached as Appendix D.

2. Allow the Virginia Resource Authority to make grants for solid waste management and recycling.

The VRA has the authority to make grants to local governments for their wastewater treatment and water supply facilities, and the State Water Control Board and the Department of Health assist VRA in determining which localities are to receive the grants. The Commission recommends that VRA be given the authority to make grants to local governments for solid waste and recycling as well. The Commission also recommends that the Virginia Waste Management Board assist the VRA in determining which localities are to receive these additional grants. This recommendation is a complement to the first one, and is implemented by the same piece of legislation, Appendix D.

3. Establish a subcommittee to determine whether or not to reestablish the former Revenue Resources and Economic Commission.

Throughout 1991, the Commission examined all aspects of the Revenue Resources Commission to decide the feasibility and desirability of reestablishing such a Commission. The new Commission could address the ongoing problem of determining revenue resources, could continue to examine financing methods after the Infrastructure Commission has completed its work, and could serve to coordinate the efforts of the staffs of the Senate Finance Committee and the House Appropriations Committee. Continuing the examination of revenue resources is important because the need for infrastructure expenditures will be a continuing problem confronting the localities for many years to come.

The Commission recommends that a joint subcommittee be established to determine whether or not a new Revenue Resources and Economic Commission would be beneficial to Virginia. Although the Commission examined this issue, the members felt that a subcommittee whose sole charge is to examine the reestablishment of the Revenue Resources Commission would be better able to devote its efforts to this important issue. A copy of the legislation that implements this recommendation is attached as Appendix E.

Respectfully submitted,

The Honorable Gladys B. Keating, *Chairman*

The Honorable Clive L. Duval, 2d, *Vice Chairman*

The Honorable C. Richard Cranwell

The Honorable David G. Brickley

The Honorable Willard R. Finney

The Honorable Clinton Miller

The Honorable Robert K. Cunningham, Sr

The Honorable Charles J. Colgan

The Honorable Madison E. Marye

The Honorable Robert E. Russell

The Honorable Joseph A. Leafe

Mr. John G. Dicks

Ms. Lee Broughton

Mr. Steven W. Pearson

Mr. Robert T. Skunda

Ms. Betty S. Thomas

Mr. Beverly T. Fitzpatrick, Jr.

VIII. APPENDICES

- A. House Joint Resolution No. 432**
- B. House Joint Resolution No. 205**
- C. Senate Joint Resolution No. SJR 74**
- D. Proposed Legislation**
- E. Proposed Legislation**

HOUSE JOINT RESOLUTION NO. 432

Creating the Local and State Government Infrastructure and Revenue Resources Commission.

Agreed to by the House of Delegates, February 24, 1989

Agreed to by the Senate, February 23, 1989

WHEREAS, Virginia is one of the most rapidly growing states in the nation; and

WHEREAS, the United States Bureau of the Census estimates that the Commonwealth's population will have increased from 5,347,000 to 6,157,000 between 1980 and 1990, and projects that the Commonwealth will be home to 6,877,000 persons by the year 2000; and

WHEREAS, the public infrastructure needs of Virginia's local governments are compelling and diverse. High growth areas are laboring unsuccessfully to provide the additional public facilities necessary to serve the exploding residential and commercial base. Central cities struggle to rebuild and replace an antiquated infrastructure in the face of fiscal stress caused by increasing demands, an uncertain tax base, and state-mandated programs. Many rural communities need to build the basic infrastructure which will enable them to attract industry, provide residential amenities, and offer quality public services vital to growth; and

WHEREAS, the revenue requirements of Virginia's local governments for transportation, water and sewer, school, and other public facilities have not been systematically and comprehensively addressed; and

WHEREAS, as the Commonwealth enters the last decade of this century, it is clearly necessary to inventory the infrastructure requirements of local governments, assess their existing tax authority and revenue capacity, including the present utilization of existing revenue sources, and take steps as may be necessary to enable local governments to develop and maintain the needed infrastructure which will adequately meet the needs of local and state governments for the next century; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That there is hereby created the Local and State Government Infrastructure and Revenue Resources Commission. The Commission shall be composed of six House members appointed by the Speaker of the House; three Senate members appointed by the Senate Committee on Privileges and Elections; and six members at-large, appointed by the Governor, two of whom shall be local elected officials, two of whom shall be local appointed officials, and two of whom shall represent business organizations in the Commonwealth. The Commission shall designate a chairman and vice-chairman from among its membership.

The Commission first shall analyze and assess the infrastructure needs of all Virginia local governments, paying due attention to the needs of localities both in areas of high growth and in the rest of the Commonwealth. It shall also assess the available state resources and the debt and taxing authorities and general revenue-raising capacities of local and state governments and the present availability of these sources to fund infrastructure needs. The Commission thereafter shall recommend measures to enable local governments to meet infrastructure needs and revenue requirements for the next decade and recommend any revisions to the debt and taxing authorities granted to localities.

The Commission shall complete its assessment of local government infrastructure needs and of debt and taxing authorities in time to submit an interim report and recommendations to the General Assembly and the Governor at the 1990 Session of the General Assembly.

The Commission shall complete its assessment and recommendations for changes and submit a report with its recommendations to the Governor and the General Assembly by December 1, 1991. All such reports shall be submitted in accordance with the procedures of the Division of Legislative Automated Systems for processing legislative documents.

The indirect costs of this study are estimated to be \$17,395; the direct costs of this study shall not exceed \$16,380.

HOUSE JOINT RESOLUTION NO. 205

Adding two new members to the Local and State Government Infrastructure and Revenue Resources Commission established by the 1989 Session of the General Assembly.

Agreed to by the House of Delegates, February 11, 1990

Agreed to by the Senate, February 27, 1990

WHEREAS, the 1989 Session of the Virginia General Assembly established the Local and State Government Infrastructure and Revenue Resources Commission to study over a two-year period local infrastructure needs, tax authority and tax capacity, and debt levels and borrowing capacity; and

WHEREAS, the Commission began its data gathering and fact finding by sending out a detailed questionnaire to each county, city, and town requesting this historical and prospective information; and

WHEREAS, the task of the Commission is now to undertake the laborious job of analyzing the data and information; and

WHEREAS, there has been a great deal of interest in the work of the Commission not only from high growth areas but from small rural counties which also have large infrastructure needs, relative to their ability to pay for those projects; and

WHEREAS, it would be of great benefit to the Commission if in their deliberations the Commission contained the widest spectrum of expertise and the widest range of representation as it studies the complexities of infrastructure and the financing of those needs; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That in addition to the membership of the Commission as established by House Joint Resolution No. 432 of the 1989 Session, there are hereby added two additional members to be appointed as follows: one individual to be appointed by the Speaker and one individual to be appointed by the Senate Committee on Privileges and Elections. These individuals shall be familiar with the work of the Commission or the subject areas being examined by the Commission in order that they assist the Commission to the greatest possible extent.

**SENATE JOINT RESOLUTION NO. 74
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Rules
on March 1, 1990)**

(Patron Prior to Substitute—Senator Colgan)

Requesting the Local and State Government Infrastructure and Revenue Resources Commission to examine the need for the construction and maintenance of regional stormwater detention systems and the financing of such systems.

WHEREAS, the Local and State Government Infrastructure and Revenue Resources Commission is examining infrastructure needs, tax authority, and tax capacity, and outstanding debt and debt capacity of local governments; and

WHEREAS, the Commission is examining sixteen specific areas of infrastructure needs; and

WHEREAS, in most instances the major areas of local infrastructure needs are similar, such as education and transportation facilities; however, there is also a great deal of diversity among the localities; and

WHEREAS, there are some relatively new areas of infrastructure needs which may not be as well known as the others; and

WHEREAS, one of these newer areas is the regional stormwater detention systems; and

WHEREAS, the Chesapeake Bay Preservation Act has accelerated the need for these types of facilities in many areas of the Commonwealth; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Local and State Government Infrastructure and Revenue Resources Commission is requested to include in the course of examining local infrastructure needs, the need for regional stormwater detention systems. The Commission shall also consider financing methods for the construction and maintenance of such facilities.

HOUSE BILL NO. 865

Offered January 21, 1992

A BILL to amend and reenact §§ 62.1-218, 62.1-230 and 62.1-239 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 62.1-230.1 and 62.1-239.1 and by adding in Title 62.1 a chapter numbered 23.1, consisting of sections numbered 62.1-241.1 through 62.1-241.10, relating to the powers and duties of the Virginia Resources Authority, the Virginia Water Facilities Revolving Fund, the Virginia Water Supply Revolving Fund and the Virginia Solid Waste or Recycling Revolving Fund.

Patrons—Keating, Brickley and Cranwell; Senator: Colgan

Referred to the Committee on Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 62.1-218, 62.1-230 and 62.1-239 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 62.1-230.1 and 62.1-239.1 and by adding in Title 62.1 a chapter numbered 23.1, consisting of sections numbered 62.1-241.1 through 62.1-241.10, as follows:

§ 62.1-218. Grants to local governments.—The Authority shall have the power and authority, with any funds of the Authority available for this purpose, to make grants ~~or appropriations~~ to local governments. In determining which local governments are to receive grants ~~or appropriations~~, the State Water Control Board ~~and~~, the Department of Health, *and the Virginia Waste Management Board* shall assist the Authority in determining needs for wastewater treatment ~~and~~, water supply facilities, *solid waste management and recycling, and the method and form of such grants*.

§ 62.1-230. Grants to local governments.—Subject to any restrictions which may apply to the use of money in the Fund, the Board in its discretion may approve the use of money in the Fund to make grants ~~or appropriations~~ *on a dollar-for-dollar match basis* to local governments to pay the cost of any project. The Board may establish such *other* terms and conditions on any grant as it deems appropriate. Grants shall be disbursed from the Fund by the Authority in accordance with the written direction of the Board.

§ 62.1-230.1. *Loans and grants for regional projects, etc.—In approving loans and grants, the Board shall give preference to loans and grants for projects that will (i) utilize private industry in operation and maintenance of such projects where a material savings in cost can be shown over public operation and maintenance or (ii) serve two or more local governments to encourage regional cooperation or (iii) both.*

§ 62.1-239. Grants to local governments.—Subject to any restrictions which may apply to the use of money in the Fund, the Board in its discretion may approve the use of money in the Fund to make grants ~~or appropriations~~ *on a dollar-for-dollar match basis* to local governments to pay the cost of any project. The Board may establish such *other* terms and conditions on any grant as it deems appropriate. Grants shall be disbursed from the Fund by the Authority in accordance with the written direction of the Board.

§ 62.1-239.1. *Loans and grants for regional projects, etc.—In approving loans and grants, the Board shall give preference to loans and grants for projects that will (i) utilize private industry in operation and maintenance of such projects where a material savings in cost can be shown over public operation and maintenance or (ii) serve two or more local governments to encourage regional cooperation or (iii) both.*

CHAPTER 23.1.

VIRGINIA SOLID WASTE OR RECYCLING REVOLVING FUND.

§ 62.1-241.1. *Definitions.—As used in this chapter, unless a different meaning clearly appears from the context:*

"Authority" means the Virginia Resources Authority created in Chapter 21 (§ 62.1-197 et seq.) of this title.

"Board" means the Virginia Waste Management Board.

"Cost," as applied to any project financed under the provisions of this chapter, means the total of all costs incurred by the local government as reasonable and necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any project. It includes, without limitation, all necessary developmental, planning and feasibility studies, surveys, plans and specifications; architectural, engineering, financial, legal or other special services; the cost of acquisition of land and any buildings and improvements thereon, including the discharge of any obligations of the sellers of such land, buildings or improvements; site preparation and development, including demolition or removal of existing structures; construction and reconstruction; labor, materials, machinery and equipment; the reasonable costs of financing incurred by the local government in the course of the development of the project; carrying charges incurred before placing the project in service; interest on funds borrowed to finance the project to a date subsequent to the estimated date the project is to be placed in service; necessary expenses incurred in connection with placing the project in service; the funding of accounts and reserves which the Authority may require; and the cost of other items which the Authority determines to be reasonable and necessary.

"Fund" means the Virginia Solid Waste or Recycling Revolving Fund created by this chapter.

"Local government" means any county, city, town, municipal corporation, authority, district, commission or political subdivision created by the General Assembly or pursuant to the Constitution or laws of the Commonwealth or any combination of any two or more of the foregoing.

"Project" means any solid waste management facility as defined in § 10.1-1400 or a recycling facility for materials identified in a plan adopted pursuant to § 10.1-1441 or both.

§ 62.1-241.2. Creation and management of Fund.—There shall be set apart as a permanent and perpetual fund, to be known as the "Virginia Solid Waste or Recycling Revolving Fund," sums appropriated to the Fund by the General Assembly, all receipts by the Fund from loans made by it to local governments, all income from the investment of moneys held in the Fund, and any other sums designated for deposit to the Fund from any source public or private. The Fund shall be administered and managed by the Authority as prescribed in this chapter, subject to the right of the Board, following consultation with the Authority, to direct the distribution of loans or grants from the Fund to particular local governments and to establish the interest rates and repayment terms of such loans as provided in this chapter. In order to carry out the administration and management of the Fund, the Authority is granted the power to employ officers, employees, agents, advisers and consultants, including, without limitation, attorneys, financial advisors, engineers and other technical advisors and public accountants and, the provisions of any other law to the contrary notwithstanding, to determine their duties and compensation without the approval of any other agency or instrumentality. The Authority may disburse from the Fund its reasonable costs and expenses incurred in the administration and management of the Fund and a reasonable fee to be approved by the Board for its management services.

§ 62.1-241.3. Deposit of money; expenditures; investments.—All money belonging to the Fund shall be deposited in an account or accounts in banks or trust companies organized under the laws of the Commonwealth or in national banking associations located in Virginia or in savings and loan associations located in Virginia organized under the laws of the Commonwealth or the United States. The money in these accounts shall be paid by check signed by the Executive Director of the Authority or other officers or employees designated by the Board of Directors of the Authority. All deposits of money shall, if required by the Authority, be secured in a manner determined by the Authority to be prudent, and all banks, trust companies and savings and loan associations are authorized to give security for the deposits. Money in the Fund shall not be commingled with other

money of the Authority. Money in the Fund not needed for immediate use or disbursement may be invested or reinvested by the Authority in obligations or securities which are considered lawful investments for public funds under the laws of the Commonwealth.

§ 62.1-241.4. Annual audit.—The Auditor of Public Accounts, or his legally authorized representatives, shall annually audit the accounts of the Authority, and the cost of such audit services as shall be required shall be borne by the Authority. The audit shall be performed at least each fiscal year, in accordance with generally accepted auditing standards and, accordingly, include such tests of the accounting records and such auditing procedures as are considered necessary under the circumstances. The Authority shall furnish copies of such audit to the Governor and to the Board.

§ 62.1-241.5. Collection of money due Fund.—The Authority is empowered to collect, or to authorize others to collect on its behalf, amounts due to the Fund under any loan to a local government, including, if appropriate, taking the action required by § 15.1-227.61 to obtain payment of any amounts in default. Proceedings to recover amounts due to the Fund may be instituted by the Authority in the name of the Fund in the appropriate circuit court.

§ 62.1-241.6. Loans to local governments.—Except as otherwise provided in this chapter, money in the Fund shall be used solely to make loans to local governments to finance or refinance the cost of any project. The local governments to which loans are to be made; the purposes of the loan; and the amount of each such loan; the interest rate thereon and the repayment terms thereof, which may vary between local governments, shall be designated in writing by the Board to the Authority following consultation with the Authority. No loan from the Fund shall exceed the total cost of the project to be financed or the outstanding principal amount of the indebtedness to be refinanced plus reasonable financing expenses.

Except as set forth above, the Authority shall determine the terms and conditions of any loan from the Fund, which may vary between local governments. Each loan shall be evidenced by appropriate bonds or notes of the local government payable to the Fund. The bonds or notes shall have been duly authorized by the local government and executed by its authorized legal representatives. The Authority is authorized to require in connection with any loan from the Fund such documents, instruments, certificates, legal opinions and other information as it may deem necessary or convenient. In addition to any other terms or conditions which the Authority may establish, the Authority may require, as a condition to making any loan from the Fund, that the local government receiving the loan covenant perform any of the following:

1. Establish and collect rents, rates, fees, and charges to produce revenue sufficient to pay all or a specified portion of (i) the costs of operation, maintenance, replacement, renewal, and repairs of the project; (ii) any outstanding indebtedness incurred for the purposes of the project, including the principal and premium, if any, and interest on the loan from the Fund to the local government; and (iii) any amounts necessary to create and maintain any required reserve, including any rate stabilization fund deemed necessary or appropriate by the Authority to offset the need, in whole or in part, for future increases in rents, rates, fees, or charges;

2. Levy and collect ad valorem taxes on all property within the jurisdiction of the local government subject to local taxation sufficient to pay the principal and premium, if any, and interest on the loan from the Fund to the local government;

3. Create and maintain a special fund or funds for the payment of the principal and premium, if any, and interest on the loan from the Fund to the local government and any other amounts becoming due under any agreement entered into in connection with the loan, or for the operation, maintenance, repair, or replacement of the project or any portions thereof or other property of the local government, and deposit into any fund or funds amounts sufficient to make any payments on the loan as they become due and payable;

4. Create and maintain other special funds as required by the Authority; and

5. Perform other acts, including the conveyance of, or the granting of liens on or security interests in, real and personal property, together with all rights, title and interest therein, to the Fund, or take other actions as may be deemed necessary or desirable by the Authority to secure payment of the principal and premium, if any, and interest on the loan from the Fund to the local government and to provide for the remedies of the Fund in the event of any default by the local government in the payment of the loan, including, without limitation, any of the following:

a. The procurement of insurance, guarantees, letters of credit and other forms of collateral, security, liquidity arrangements or credit supports for the loan from any source, public or private, and the payment therefor of premiums, fees, or other charges;

b. The combination of one or more projects, or the combination of one or more projects with one or more other undertakings, facilities, utilities, or systems, for the purpose of operations and financing, and the pledging of the revenues from such combined projects, undertakings, facilities, utilities, and systems to secure the loan from the Fund to the local government made in connection with such combination or any part or parts thereof;

c. The maintenance, replacement, renewal, and repair of the project; and

d. The procurement of casualty and liability insurance.

All local governments borrowing money from the Fund are authorized to perform any acts, take any action, adopt any proceedings and make and carry out any contracts that are contemplated by this chapter. Such contracts need not be identical among all local governments, but may be structured as determined by the Authority according to the needs of the contracting local governments and the Fund.

Subject to the rights, if any, of the registered owners of any of the bonds of the Authority, the Authority may consent to and approve any modification in the terms of any loan to any local government subject to guidelines adopted by the Board.

§ 62.1-241.7. Grants to local governments.—Subject to any restrictions which may apply to the use of money in the Fund, the Board in its discretion may approve the use of money in the Fund to make grants on a dollar-for-dollar match basis to local governments to pay the cost of any project. The Board may establish such other terms and conditions on any grant as it deems appropriate. Grants shall be disbursed from the Fund by the Authority in accordance with the written direction of the Board.

§ 62.1-241.8. Loans and grants for regional projects, etc.—In approving loans and grants, the Board shall give preference to loans and grants for projects that will (i) utilize private industry in operation and maintenance of such projects where a material savings in cost can be shown over public operation and maintenance or (ii) serve two or more local governments to encourage regional cooperation or (iii) both.

§ 62.1-241.9. Pledge of loans to secure bonds of Authority.—The Authority is empowered at any time and from time to time to transfer from the Fund to banks or trust companies designated by the Authority any or all of the assets of the Fund to be held in trust as security for the payment of the principal and premium, if any, and interest on any or all of the bonds (as defined in § 62.1-199) of the Authority. The interests of the Fund in any obligations so transferred shall be subordinate to the rights of the trustee under the pledge. To the extent funds are not available from other sources pledged for such purpose, any payments of principal and interest received on the assets transferred or held in trust may be applied by the trustee thereof to the payment of the principal and premium, if any, and interest on such bonds of the Authority to which the obligations have been pledged, and, if such payments are insufficient for such purpose, the trustee is empowered to sell any or all of such assets and apply the net proceeds from the sale to the payment of the principal and premium, if any, and interest on such bonds of the Authority. Any assets of the Fund transferred in trust as set forth above and any payments of principal, interest or earnings received thereon shall remain part of the Fund but shall be subject to the pledge to secure the bonds of the Authority and shall be held by the trustee to which they are pledged until no longer required for such purpose by the

terms of the pledge. On or before January 10 each year, the Authority shall transfer, or shall cause the trustee to transfer, to the Fund any assets transferred or held in trust as set forth above which are no longer required to be held in trust pursuant to the terms of the pledge.

§ 62.1-241.10. Liberal construction of chapter.—The provisions of this chapter shall be liberally construed to the end that its beneficial purposes may be effectuated. Insofar as the provisions of this chapter are inconsistent with the provisions of any other law, general, special or local, the provisions of this chapter shall be controlling.

Appendix E

HOUSE JOINT RESOLUTION NO. 90

Offered January 20, 1992

Creating a joint subcommittee to study the need to establish a revenue resources and economic commission.

Patrons—Keating, Cranwell and Cunningham, R.K.

Referred to the Committee on Rules

WHEREAS, Virginia is experiencing one of the worst recessions in recent history; and
WHEREAS, economists predict that Virginia will lag behind the nation in its recovery from the recession; and

WHEREAS, localities are faced with declining tax bases and are experiencing difficulties in their struggle to provide adequate public facilities for their citizens; and

WHEREAS, if a locality fails to invest in vital public facilities, it will be unable to attract businesses and jobs; will jeopardize the health, education, and welfare of its citizens; will erode its tax base; and will fail to prepare itself for future productivity and growth; and

WHEREAS, given the importance of the provision of facilities and services and the fiscal difficulties confronting localities, it is necessary to examine present sources of funding as well as new and innovative approaches to public finance; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That there be created a joint subcommittee to study the need to establish a revenue resources and economic commission. The subcommittee shall be composed of six members of the House of Delegates to be appointed by the Speaker of the House and four members of the Senate to be appointed by the Senate Committee on Privileges and Elections. The subcommittee shall designate a chairman and vice chairman from among its members.

In its examination of the need for a revenue resources and economic commission, the subcommittee shall study the following issues:

1. The benefits and the drawbacks of the former Revenue Resources and Economic Commission, which was created in 1968 and abolished in 1980, and how, if at all, a new such commission should resemble the former one;

2. The responsibilities that the new commission should have, such as examination of long-term or short-term tax policy and equity issues, budgetary issues, revenue forecasting, and local or state issues or both;

3. Whether the commission should be given specific areas to examine;

4. Whether the commission should be a joint legislative and executive branch commission or a purely legislative commission;

5. The role the commission should have in relationship to the House and Senate Finance Committees and the House Appropriations Committee, and how the duties assigned to these committees would overlap with the duties assigned to the commission;

6. Whether the commission should have its own staff or be assigned in-house staff; and

7. How the commission could serve to coordinate the efforts of the staffs of the House Appropriations and House and Senate Finance Committees, and improve communication between the staffs.

The subcommittee shall report its findings and recommendations to the Governor and the 1993 Session of the General Assembly no later than December 31, 1992. The report shall be submitted in accordance with the procedures of the Division of Legislative Automated Systems for processing legislative documents.

The indirect costs of this study are estimated to be \$9,000; the direct costs of this study shall not exceed \$8,000.