

**FY22
COMPENSATION BOARD
BUDGET HEARING**

**April 13, 2021 – Online Meeting
Richmond, VA**

10:00 a.m.

**Tyrone Nelson, Chairman
Staci Henshaw, Ex-officio Member
Craig Burns, Ex-officio Member**

COMPENSATION BOARD FY22 BUDGET PRIORITIES

The Compensation Board develops priorities each year to be used in establishing the budgets for all Constitutional Officers. To begin the budgeting process, the Compensation Board applies its general priorities in establishing a base funding level for each office, considering annual budget requests of constitutional officers and General Assembly actions, prior to determining individual budget amounts. These general priorities include:

- ◆ Level funding of existing base budgets for personnel, including salaries for permanent positions, fringe benefits, hourly-wage/temporary funding and office expense funding.
- ◆ Continued funding for existing participants in career development programs.
- ◆ Allocation of any positions and funding established through legislative actions.
- ◆ Salary adjustments for Constitutional Officers changing population groups.
- ◆ Reclassifications where there is no salary cost.
- ◆ Allocation of positions based on the position reallocation policy.
- ◆ No funding is available for equipment for any offices. For local and regional jails, LIVESCAN equipment funding previously considered during the budget allocation process for will be considered on an individual request basis at regularly scheduled Board Meetings (Clerks' Technology Trust Funds are not a part of base budget funds and budgeted separately beginning in the late summer).

COMPENSATION BOARD FY22 LEGISLATIVE ISSUES SHERIFFS AND REGIONAL JAILS

Workers' Compensation Presumption

of Compensability for COVID-19: **HB2207/SB1375** establishes a presumption that COVID-19 causing the death or disability of firefighters, emergency medical services personnel, law-enforcement officers, correctional officers, and regional jail officers is an occupational disease compensable under the Workers' Compensation Act. The bill provides that such presumption applies to any death or disability occurring on or after July 1, 2020, caused by infection from the COVID-19 virus, provided that for any such death or disability that occurred on or after July 1, 2020, and prior to December 31, 2021, the claimant received a diagnosis of COVID-19 from a licensed physician, after either a presumptive positive test or a laboratory confirmed test for COVID-19, and presented with signs and symptoms of COVID-19 that required medical treatment.

FOIA and Law-Enforcement Criminal Investigative files:

HB2004 adds criminal investigative files relating to a criminal investigation or proceeding that is not ongoing to the types of law-enforcement and criminal records required to be released in accordance with the provisions of the Virginia Freedom of Information Act (FOIA). Under current law, the release of criminal investigative files is discretionary. The bill provides that the mandatory release of criminal incident information relating to felony offenses and criminal investigative files shall not be required if the release of such information would likely effect certain results. The bill also extends the amount of additional time a public body has to respond, in the case of a request for certain criminal investigative files, from an additional seven work days to an additional 60 work days as long as the public body has communicated to the requester within the initial allowable five-work-day response period that it is not practically possible to provide the requested records or to determine whether they are available within the five-work-day period.

**COMPENSATION BOARD
FY22 LEGISLATIVE ISSUES
SHERIFFS AND REGIONAL JAILS**

**Behavioral Health Assessments
in Local Correctional Facilities:**

HB1874 Requires the Board of Local and Regional Jails (the Board) to include in its minimum standards for behavioral health services in local correction facilities requirements for (i) referral of individuals committed to local correctional facilities for whom a behavioral health screening indicates reason to believe the person may have mental illness to a behavioral health service provider for a behavioral health assessment and (ii) in cases in which there is reason to believe an individual is experiencing acute mental health distress or is at risk for suicide, (a) staff of the local correctional facility to consult with the behavioral health service provider to implement immediate interventions and to provide ongoing monitoring to ensure the safety of the individual and (b) the behavioral health assessment to be completed within 72 hours of completion of the behavioral health screening unless the 72-hour period ends on a Saturday, Sunday, or legal holiday, in which case the assessment shall be completed by the close of business on the next working day. The bill requires the Board to (1) review the behavioral health screening and assessment process for individuals committed to local correctional facilities, (2) identify barriers to ensuring that all behavioral health assessments are completed within 72 hours of the behavioral health screening, (3) develop recommendations for addressing such barriers, and (4) report its findings and recommendations to the Secretary of Public Safety and Homeland Security and the Chairmen of the House Committees on Health, Welfare and Institutions and Public Safety and the Senate Committee on Rehabilitation and Social Services by October 1, 2021.

**COMPENSATION BOARD
FY22 SPECIFIC BUDGET ISSUES
ALL OFFICES**

Salary Increases:

Funding is included to support a 5% across-the-board salary increase effective July 1, 2021, for all constitutional officers, regional jails and their employees, provided that the governing authority of such employees uses such funds to support salary increases, and general guidance supports that a local salary increase of 5% provided within the current biennium (FY21 and/or FY22) would meet the intent of the language.

Based upon the passage of **SB7/HB395** (2020) related to an increase in the minimum wage, the 2020 and 2021 General Assemblies included funding to increase the minimum wage from \$7.25/hour to \$9.50/hour effective May 1, 2021, and from \$9.50/hour to \$11.00/hour on January 1, 2022. Although the current minimum salary on the Compensation Board's classification and pay plan exceeds the annual salary at \$9.50/hour, and the minimum salary after the 5% across-the-board salary increase on July 1, 2021 will also exceed the annual salary at \$11.00/hour, any position that is currently underfunded will be affected by this language.

Based on 2021 population estimates provided by the Weldon Cooper Center for Public Service, Warren County has met a locality population-based threshold of 40,000. As a result, the salaries of all constitutional officers except the Commonwealth's Attorney serving Warren County have been adjusted to reflect an increase effective July 1, 2021, based on authorizing language contained in the 2021 Appropriation Act.

New Positions:

The 2021 General Assembly has approved additional funding and positions to allocate 29 court services deputy positions to Sheriffs' offices and 29 positions to Commonwealth's Attorneys offices based on staffing standards, as well as 14 positions to establish a minimum staff of 3 FTE employees in Circuit Court Clerks' offices. Positions and funding are also included to support additional staffing related to the jail construction project in Henry County, currently scheduled to be completed in January 2022.

COMPENSATION BOARD FY22 SPECIFIC BUDGET ISSUES ALL OFFICES

Career Development Programs:

The 2021 General Assembly did not approve additional funding to support further participation in existing career development programs in FY22. Salary increases for newly funded participation in FY22 will be approved where existing funds have accrued through attrition of former funded participants.

Premium Recoveries:

In FY22, The Compensation Board will recover:

- 100% of the cost of premiums paid on behalf of constitutional officers, regional jails, and their employees to the Division of Risk Management (DRM) for the VARISK general liability insurance and surety bond coverage;
- 100% of the unfunded portion of the premium paid to the Virginia Retirement System (VRS) for the retiree health care credit (the unfunded portion represents 35% of the total projected premiums to be paid by the Compensation Board);
- \$80,000 from sheriffs and regional jails to support jail risk management training.

Since FY17, budget language requires the Division of Risk Management (DRM) to identify premium amounts by office, incorporating factors such as claims history, staffing, and average daily jail populations into the methodology for the distribution of premium recovery amounts by office, which can result in significant shifts of cost among offices from year to year. In FY22, the total VARISK general liability premium will remain unchanged at the FY21 level; however, every office's proportion of the total will change somewhat in FY22 based upon these factors; some offices will see an increase, while other offices will see a decrease in their premium amounts.

**COMPENSATION BOARD
FY22 SPECIFIC BUDGET ISSUES
ALL OFFICES**

**Language regarding Levies
Upon Property:**

The 2021 General Assembly approved language in the Appropriation Act clarifying that an officer (such as a treasurer or sheriff) who distrains or levies upon property (for instance, to satisfy delinquent taxes or a recorded judgment) may utilize an auctioneer or auction firm located outside the officer's jurisdiction to sell the property. This allowance may lead to cost efficiencies for the seller and the owner

**Salary Increase Non-
Supplanting Language:**

Language preventing local governments from using Compensation Board funding to supplant local funds provided for salary increases of constitutional officers and their employees on July 1, 2012, under the provisions of Chapter 822, 2012 Acts of Assembly, remains unchanged.

In accordance with the provisions of SB497 from the 2012 Session of the General Assembly (aka Chapter 822, 2012 Acts of Assembly), localities provided a 5% salary increase (unless phasing in) on July 1, 2012 to constitutional officers and their employees to offset the transition of the payment of the 5% member contribution to VRS for retirement premiums from the locality to the employee. Any Compensation Board salary increase funds cannot be used to offset the 5% salary increase amount (or phase-in amount) funded by the locality in association with this VRS contribution change.

This language regarding non-supplanting of local funds does not apply to any salary supplement amounts provided by localities that exceed the 5% increase related to the VRS member contribution amount, nor does it apply to employees hired into a Compensation Board funded position after July 1, 2012 (or after July 1, 2010 if locality implemented phase I and phase 2 programs at that time).

**COMPENSATION BOARD
FY22 SPECIFIC BUDGET ISSUES
SHERIFFS AND REGIONAL JAILS**

Salary Increases:

Salary increases for regional jails have been approved by the 2021 General Assembly effective July 1, 2021, to match an increase previously provided for entry level deputy sheriffs - \$897 for each entry level jail officer with less than one year of service (grade 7) and \$938 for those with more than one year of service (grade 8) in a Compensation Board funded entry level jail officer position;

New Positions:

Positions and funding to support 29 new court services deputy sheriff positions have been approved by the 2021 General Assembly to allocate in accordance with staffing standards effective July 1, 2021.

Positions for New or Expanded Jail Capacity:

Funding and 107 new positions to support the Henry County Jail replacement project currently scheduled to open in January 2022 have been approved by the 2021 General Assembly.

Automatic Regrades from Grade 7 to 8 for Sworn Deputies:

Automatic regrades from grade 7 to grade 8 for deputy sheriffs and regional jail officers that occur on the first of the month on or after the one-year anniversary of the date of hire into a grade 7 deputy or officer position are accompanied by a 4.56% salary increase.

**COMPENSATION BOARD
FY22 SPECIFIC BUDGET ISSUES
SHERIFFS AND REGIONAL JAILS**

Jail Per Diem Payments:

Based on current projections of inmate population levels, FY22 funding of \$56.1 million was included in the introduced budget and approved by the 2021 General Assembly for inmate per diem payments.

Language in the Appropriation Act provides that should funds available for a quarterly per diem payment be insufficient to cover the entire amount of the payment, the payment will be pro-rated accordingly.

Any revisions to funding needed associated with inmate population levels for FY22 will be determined based on updated population forecasting during the fall 2021 budget development process and considered during the 2022 General Assembly session.

Federal Overhead Cost Recovery:

The methodology for recovery of the costs borne by the Commonwealth associated with the housing of federal inmates in local and regional jails (excluding construction costs) remains unchanged in FY22.

Nottoway County Funding For Offenders from Virginia Center For Behavioral Rehabilitation:

Beginning with FY17, the General Assembly has approved funding of \$100,000 in each year to reimburse Nottoway County for incurred costs of confinement of residents of the Virginia Center for Behavioral Rehabilitation arrested for new offenses and housed in Piedmont Regional Jail. Funding of up to \$198,667 in FY21 and up to \$215,939 in FY22 was approved by the 2020 General Assembly to reimburse actual expenses incurred. Budget language provides for the reimbursement timeline and necessary demonstration of costs incurred for the Compensation Board to reimburse the County.

COMPENSATION BOARD FY22 SPECIFIC BUDGET ISSUES SHERIFFS AND REGIONAL JAILS

Withholding of Reimbursements: Since July 1, 2016, the Compensation Board has been authorized to withhold reimbursements due the locality for sheriff and jail expenses if the sheriff fails to self-certify their compliance with information transmittal requirements to the Sex Offender and Crimes Against Minors Registry of the Virginia State Police.

Since July 1, 2007, the Compensation Board has been authorized to withhold reimbursements due the locality for sheriff and jail expenses upon notification from the Superintendent of State Police that there is reason to believe that crime data reported by a locality to the Department of State Police in accordance with § 52-28, Code of Virginia, is missing, incomplete or incorrect.

Upon subsequent notification by the Superintendent that crime reporting data is submitted accurately and/or timely, or upon certification by the sheriff that information transmittals are meeting requirements, the Compensation Board shall make reimbursement of withheld funding due the locality, when such corrections and/or certifications are made within the same fiscal year that funds have been withheld. The Board will review and act upon late data reporting as notified by the Department of State Police on a quarterly and/or annual basis and upon failures to certify compliance with information transmittal requirements on an annual basis.

COMPENSATION BOARD FY22 SPECIFIC BUDGET ISSUES COMMONWEALTH'S ATTORNEYS

New Positions:

Positions and funding to support 19 Assistant Commonwealth's Attorney positions and 10 paralegal and administrative staff positions have been approved by the 2021 General Assembly to allocate in accordance with staffing standards effective July 1, 2021.

Insurance Fraud Prosecutors:

Based on action during the 2017 and 2018 General Assembly sessions, a non-general fund appropriation of \$600,000 and five positions in each year of the biennium from the Virginia State Police Insurance Fraud Fund is provided to allocate and fund multi-jurisdictional Assistant Commonwealth's Attorney positions to prosecute insurance fraud. Allocation of these positions is contingent upon Virginia State Police identification of localities and local agreement to participate in the prosecution of these activities. Currently four of the five additional Assistant Commonwealth's Attorney positions have been allocated in accordance with the recommendations of the Virginia State Police; at this time the fifth position is not recommended for allocation in FY22.

**Commonwealth's Attorneys
Conversion of Offices from
Part-time to Full-time:**

The General Assembly has approved funding to support the conversion of the part-time Commonwealth's Attorneys' office in Craig County to full-time status effective July 1, 2021.

**Workload Study for Revising
Staffing Standards:**

The 2021 General Assembly approved language and funding in FY22 for the Compensation Board to contract with the National Center for State Courts to assist the Compensation Board and the Virginia Association of Commonwealth's Attorneys with an encompassing study of Commonwealth's Attorney workload (to include diversion programs, specialty dockets, etc), in order to revise staffing standards formulas used as the basis for the allocation of positions and funding in Commonwealth's Attorneys' offices. This project will include a time-study of work in every Commonwealth's Attorney's office and will require cooperation and participation by all offices.

Workload Study (cont):

Work will begin in the summer of 2021, with a summary of the plans due in November, 2021, and a final report on the completion of the study due in November, 2022.

Local Support for Body Worn Camera Implementation:

The 2021 General Assembly continued language approved in 2019 based on a recommendation of the 2018 Body Worn Camera study work group establishing guidelines for staffing requirements by localities for Commonwealth's Attorneys' offices to provide funding to support one Assistant Commonwealth's Attorney for every 75 body worn cameras employed by local law enforcement officers, but allows for any locality to implement alternative staff funding with the consent/agreement of the Commonwealth's Attorney. Any agreed upon funding formula between the impacted Commonwealth's Attorney and the locality employing body worn cameras shall be filed with the Compensation Board by July 1 of each year and shall remain in effect unless modified by the agreement of both parties until June 30th of the following year.

The 2021 General Assembly approved language continuing a body worn camera workgroup formed by the Secretary of Public Safety and Homeland Security in 2019 to expand upon a 2018 workgroup (that was limited to reviewing the impact of body worn cameras on the workload of Commonwealth's Attorneys) to examine the workload impact, as well as other fiscal and policy impacts, on the Commonwealth's public safety and judicial agencies as a whole, to include representatives from the Supreme Court, the Compensation Board, staff of the House Appropriations and Senate Finance Committees, Department of Criminal Justice Services, Commonwealth's Attorneys, local governments, and other stakeholders deemed appropriate by the Secretary. Recommendations of the working group are to be reported to the Chairmen of the House Appropriations and Senate Finance Committees by November 15, 2021, and are to include greater detail from each Commonwealth's Attorney's office in localities that employ body worn cameras regarding hours of footage and hours of redaction, in conjunction with the law enforcement agency using the body worn cameras, as reported to the Compensation Board and the workgroup.

COMPENSATION BOARD FY22 SPECIFIC BUDGET ISSUES CIRCUIT COURT CLERKS

Salary Increases:

The 2021 General Assembly has approved funding to increase all Circuit Court Clerk staff positions in Pay Bands 1 and 2 to address pay equity with district court clerk positions by increasing the Compensation Board entry-level salary for staff to a minimum salary of \$30,660 and increasing salaries for all positions with current salaries below the new entry-level. Coupled with the 5% across-the-board increase provided for all constitutional officers and their employees mentioned previously, the new entry-level salary for staff in Circuit Court Clerks' offices will be \$32,193, effective July 1, 2021.

New Positions:

Positions and funding to support 14 new deputy clerk positions to establish a minimum of three fully-funded staff positions in each Circuit Court Clerk's office has been approved by the 2021 General Assembly for allocation July 1, 2021.

Circuit Court Clerks' Foreclosure Pilot:

Language approved by the 2019 General Assembly and \$75,000 in funding is continued for the Williamsburg/James City County Circuit Court Clerk's office to conduct a pilot program to provide an online listing of foreclosures, continued courthouse posting of foreclosures, and to provide notice of foreclosures to the local newspaper for a limited period of time.

**COMPENSATION BOARD
FY22 SPECIFIC BUDGET ISSUES
CIRCUIT COURT CLERKS,
TREASURERS & COMMISSIONERS OF THE REVENUE**

**Circuit Court Clerks'
Technology Trust Funds:**

Beginning with FY11, the General Assembly approved a line of credit in the amount of \$8 million each year for budgeting Technology Trust Fund cash in the year in which it is collected. Amounts available for budgeting each fall are based upon any unspent collections from prior years and a projection of incoming cash for the current year, which may be more or less than the maximum \$8 million level. Reimbursements for expenses incurred cannot exceed actual cash collected during the budget year.

Language providing for the use of Technology Trust Funds (TTF) to offset previous general fund budget reductions continues to designate \$0.98 million of TTF collections in FY22 for this purpose, after the 2021 General Assembly approved the restoration of \$1 million in general fund appropriations to support Clerks' operating budgets, reducing the non-general fund transfer.

**Salary Fund Restoration
For Underfunded and Unfunded
Positions, Treasurers and
Commissioners:**

Salary restoration funding for staff positions in Treasurers' offices has been approved by the 2021 General Assembly to re-fund approximately 50% of the difference between the current and entry-level salaries of underfunded positions, and re-fund full salaries at the entry-level for 10% of unfunded positions, effective July 1, 2021.

Salary restoration funding for staff positions in Commissioners of the Revenue's offices has been approved by the 2021 General Assembly to re-fund 100% of the difference between the current and entry-level salaries of underfunded positions, and re-fund full salaries at the entry-level for 10% of unfunded positions, effective July 1, 2021.

COMPENSATION BOARD FY22 REIMBURSEMENT POLICIES FUNDING LEVELS

OFFICER SALARIES

**Sheriffs/Regional Jails,
Commonwealth's Attorneys,
and Clerks:**

100% of Appropriation Act amount.

**Treasurers and
Commissioners:**

50% of 1980 salary amount plus 100%
of all increases to Appropriation Act amount.

OFFICER BENEFITS

**Sheriffs/Regional Jails and
Commonwealth's Attorneys:**

FICA at 7.65% and VRS retirement at actual rate, not
to exceed 2.13%, paid on 100% of approved salary
amounts. Contributions for VRS Group Life Insurance
will be required in FY22, and reimbursement will be
made at 0.28%.

Clerks:

Benefit rates as stated above, paid on two-thirds of
approved salary amounts.

**Treasurers and
Commissioners:**

Benefit rates as stated above, paid at same
percentage level as officer's salary.

FULL-TIME PERMANENT STAFF SALARIES & TEMPORARY (HOURLY/WAGE) STAFF SALARIES

**Sheriffs/Regional Jails*,
Commonwealth's Attorneys,
and Clerks:**

100% of Compensation Board approved amount.

**Treasurers and
Commissioners:**

50% of Compensation Board approved amount.

*Exception: Reimbursement amounts for Medical, Treatment, Classification, and
Records positions in Sheriffs' offices and regional jails represent 2/3rds of the total salary
approved by the Compensation Board.

**COMPENSATION BOARD
FY22 REIMBURSEMENT POLICIES
FUNDING LEVELS**

**FULL-TIME PERMANENT STAFF BENEFITS
& TEMPORARY (HOURLY-WAGE) STAFF BENEFITS**

**Sheriffs/Regional Jails
and Commonwealth's
Attorneys:**

FICA at 7.65% for full-time staff and hourly staff, and VRS retirement at actual rate, not to exceed 2.13% for permanent staff positions only, paid on 100% of approved salary amounts. Contributions for VRS Group Life Insurance will be required in FY22, and reimbursement will be made at 0.28%.

Clerks:

Benefit rates as stated above, paid on two-thirds of approved salary amounts.

**Treasurers and
Commissioners:**

Benefit rates as stated above, paid on one-half of approved salary amounts.

OFFICE EXPENSES

**Sheriffs/Regional Jails,
Commonwealth's Attorney's,
And Clerks:**

100% of Compensation Board approved amount.

**Treasurers and
Commissioners:**

50% of Compensation Board approved amount.

COMPENSATION BOARD FY22 REIMBURSEMENT POLICIES FUNDING LEVELS

EQUIPMENT

Sheriffs/Regional Jails:

No funding is provided in FY22 for equipment.

Funding previously considered during the budget allocation process for LIVESCAN equipment is now considered on an individual request basis at regularly scheduled Board Meetings.

Commonwealth's Attorneys, Treasurers and Commissioners:

No funding is provided in FY22 for equipment.

Clerks:

Clerks' technology funding requests will be considered by the Compensation Board at its September 2021 Board Meeting after on-line budget requests are submitted in August. A stress factor will not be applied. An estimate of fiscal year 2022 technology trust funds has been provided on the Compensation Board website to assist in automation planning for the upcoming fiscal year.

Based on language approved by the 2010 General Assembly, a line of credit of up to \$8 million will allow the Compensation Board to budget incoming collections in FY22.

Budget language allows for up to \$0.98 million in non-general technology trust funds to be used in each year to offset a like amount of general fund operating budget reductions, that would otherwise impact clerks' staffing funding, from a previous biennium that have not been restored.

COMPENSATION BOARD FY22 REIMBURSEMENT POLICIES FUNDING LEVELS

MEETING AND CONFERENCE EXPENSES

All Officers:

We anticipate continuing to offer programs in FY22 for new officers and lawful employment practices. Reimbursement will continue to be provided for expenses related to attendance at these training programs. Training will also be provided on a monthly basis for COIN (reimbursement and personnel processing system) and LIDS (Local Inmate Data System – per diems). No other funding is available for reimbursement of attendance at non-Compensation Board sponsored training events, although associated expenses may be reimbursed through existing office expense budgets.

SUBSTITUTE PROSECUTOR EXPENSES

Commonwealth's Attorneys Only:

Direct reimbursement of travel expenses is provided to all Commonwealth's Attorneys and assistant Commonwealth's Attorneys not requesting hourly rate reimbursement.

Reimbursement of hourly rate fees, not to exceed \$50 per hour, plus expenses, only provided for "part time" Commonwealth's Attorneys or assistants.

EXCEPTION TO TREASURERS' FUNDING LEVELS

100% of all Compensation Board approved expenses are reimbursed for Treasurers in the cities of Colonial Heights, Lynchburg, and Richmond. Two-thirds of all Compensation Board approved salary and office expenses are reimbursed for Treasurers in the cities of Danville, Petersburg, and Williamsburg.

COMPENSATION BOARD FY22 REIMBURSEMENT POLICIES FUNDING LEVELS

JAIL PER DIEM PAYMENTS

Per Diem Payments:

Funding rates established to compensate localities for the costs of housing inmates remain unchanged in FY22. The per diem rates for offenders that are arrested on a state warrant are, as required by law: \$4 for local responsible inmates housed in a local or regional jail, and \$18 for such inmates housed in a jail farm; \$12 for all state responsible inmates housed in all jail facilities.

Federal Overhead Recovery:

Language is included in the Appropriation Act for the recovery of the federal and out-of-state share of all state-funded costs including personnel, non-personnel (excluding construction costs), vehicle expenses, and grants, based upon the number of federal and out-of-state inmates housed in jail on a per day basis. The Compensation Board determines the overhead recovery amount based upon the per day state revenues provided in the most recent available Jail Cost Report, and will deduct it from the quarterly per diem payment for state and local inmates. Jails that are not owed sufficient quarterly per diem amounts against which to recover the overhead amount will be required to submit a payment to the Compensation Board in the amount that the overhead cost exceeds the per diem payment amount.

Emergency Medical Expenses:

The Compensation Board may reimburse localities for costs of emergency medical care incurred outside the jail for state responsible inmates overdue for transfer to the Department of Corrections, not to exceed \$377,010 per year statewide. The Compensation Board approves and reimburses in November and May of each fiscal year expenses incurred in the previous six months.