

INTERIM REPORT

**AN ANALYSIS OF HIGHWAY  
CONDEMNATION CASES UNDER THE  
PROVISIONS OF SENATE BILL 724:  
COMPARISONS OF JURY  
AND COMMISSION AWARDS**



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(The opinions, findings, and conclusions expressed in this  
report are those of the authors and not necessarily  
those of the sponsoring agencies)

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Senate Bill 724 (Acts 1991, Ch 520) requires that the Virginia Department of Transportation (VDOT) conduct an analysis comparing the monetary awards made by condemnation juries to those made by litigant-nominated commissioners. This analysis has been performed by Amy A. O’Leary, Ph.D. and Michael A. Perfater of VDOT’s Research Council, with assistance from Stuart A. Waymack, State Right of Way Engineer and his staff, particularly Gus Fletcher in VDOT’s Central Office, and Richard Baker, Assistant Right of Way Manager in VDOT’s Northern Virginia District, Assistant Attorney General James Hayes, and the fee attorneys who represent the Commonwealth in Northern Virginia and Chesterfield County.

## EXECUTIVE SUMMARY

By law, the Virginia Department of Transportation may condemn property needed for road improvements, if an acceptable purchase price cannot be negotiated with the property owner. Currently, commissioners nominated by the Commonwealth and the property owner determine just compensation to the landowner in cases that go to trial. Right of way costs have escalated greatly in Virginia, and it is a fairly commonly held belief among many who are involved in the trials that the current commissioner selection procedure tends to produce awards that are unfavorable to the Commonwealth.

With the passage of Senate Bill 724 (SB 724), the 1991 General Assembly called for a 30-month “experiment” wherein juries rather than litigant-nominated commissioners would be used to decide highway condemnation cases. Initially, SB 724 applied only to four Northern Virginia counties and neighboring cities (i.e., those encompassed within VDOT’s Northern Virginia District). In 1993, the jury provisions were extended to Chesterfield County, and in 1994, to Henrico County.

VDOT’s Research Council assessed the effects of the new jury procedure by performing statistical comparisons of jury awards and commissioner awards, interviewing attorneys and Department staff, and attending condemnation trials.

Conclusions from the statistical analysis are tentative, because the number of jury trials to date is quite small. For the Northern Virginia commissioner-heard cases sampled, total awards were **208 percent** of the sum of the state’s highest appraisals of the parcels. For the Northern Virginia jury-heard cases held thus far, total awards have been **132 percent** of the sum of the state’s highest appraisals.

For the Chesterfield County commissioner-heard cases sampled, total awards were **317 percent** of the sum of the Commonwealth’s highest appraisals of the parcels. Although there were too few Chesterfield County jury-heard cases to calculate meaningful statistics, two nearly identical cases, one heard by a jury and one heard by a commission, were available for comparison. In the jury-heard case, the award was **116 percent** of the Commonwealth’s highest appraisal; in the commission-heard case, the award was **154 percent** of the highest state appraisal.

Attorneys interviewed report that they have not detected any trend in jury awards compared to commission awards. They (the attorneys) say that the Commonwealth has had both favorable and unfavorable awards from juries. These attorneys say that jury trials tend to be longer in duration, due in large part to the jurors’ unfamiliarity with real estate concepts. Some attorneys think that more out of court settlements have occurred as a consequence of the use of juries, but not all of those interviewed share this view. Some of the Commonwealth’s attorneys in Northern

Virginia prefer the commissioner system to the jury system, because they believe that it (the commissioner system) gives them an “expert panel” of experienced commissioners whose qualifications are well-known. This preference for commissioners does not appear to be universally shared by all attorneys, particularly in other parts of the state, where the commissioner procedure may operate a bit differently. Indeed, some attorneys express the view that commissions often include individuals who are not knowledgeable about the technical aspects of real estate valuation, and who may be sympathetic to one side or the other as a consequence of their friendships or business associations.

In the aggregate, the data suggest that jury awards **may** be lower than awards under the current procedures. Since the number of jury cases is very small, however, and the interviews suggest that the commissioner procedure may be used somewhat differently in Northern Virginia than elsewhere, the authors recommend a two-year extension of the expiration date of SB 724, to July 1, 1996. An extension would enable the authors to analyze additional cases in both Northern Virginia and Chesterfield County; the latter could provide a more typical venue in which to compare awards under the two procedures.

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## **INTRODUCTION**

By law, the Virginia Department of Transportation (VDOT) is vested with the power of eminent domain. This enables it to condemn land needed for road improvements if all reasonable attempts to purchase property by negotiating a purchase price with the property owner fail. The condemnation process is initiated with the filing of a legal petition to the court (the certificate of take) in the jurisdiction in which the property is located. Negotiations with the property owner can continue after the filing of the certificate, and if the negotiations are successful, an Agreement After Certificate (AAC) is reached. If all negotiations fail, however, the Code of Virginia provides that the issue of just compensation to the property owner is to be decided by a special five-member panel, called a commission.

Prior to December 1, 1991, condemnation commissions in Virginia were generally comprised of individuals nominated by either the property owner or the Commonwealth (henceforth referred to as "the commissioner system" or "the current system"). Other states use a variety of approaches to select the members of such panels (Perfater, 1989). As outlined in Code Section 25-46.20, each side is given two peremptory challenges to reduce the nine potential commissioners to the five commissioners who will hear the case. Ultimately, the issue of just compensation to the landowner is determined by a simple majority of panel members (i.e., at least three commissioners of five).

Without question, right of way costs have been escalating rapidly in the Commonwealth. In some urbanized areas, right of way acquisition costs frequently exceed project construction costs. Multiple factors often underlie high right of way costs: zoning and Comprehensive Plan changes, rapid development in certain areas, extension of water and sewer, the length of time it takes for transportation projects to obtain all necessary approvals, and high court awards to landowners. High right of

way costs may also be caused by property appreciation in anticipation that a road will be improved (the so-called “unearned increment”).

The current condemnation trial procedure quite often produces a panel of three landowner-nominated commissioners and two commissioners nominated by the state. VDOT staff and fee appraisers say that awards that are very unfavorable to the Commonwealth tend to occur more often in this situation, especially in rural areas (Perfater, 1989).

In 1991, the General Assembly enacted Senate Bill 724 (SB 724) (Ch 520, Acts 1991) which provided for an alternative panel selection process in the Northern Virginia counties of Arlington, Fairfax, Loudoun and Prince William, and cities surrounded by or contiguous to those counties (Code 25-46.20:1). In those counties and cities, between December 1, 1991 and July 1, 1994, potential panel members are to be selected by the Clerks of Court from jury pools of ordinary citizens (henceforth referred to as the “jury system”). Subsequently, the 1993 General Assembly extended the condemnation jury requirement to Chesterfield County in House Bill 640 (Acts 1993, Ch 906); in the 1994 Session, it was extended to Henrico County.

Selection of individuals from a jury pool is likely to yield a rather different type of panel member than the current commissioner system does. Commissioners selected under the current system typically have occupations in real estate, lending, or related fields. Most jurors, on the other hand, would tend not to have any specialized knowledge of these fields—they would be ordinary homeowners. Jurors are also unlikely to be acquaintances of either the property owner or the Commonwealth’s representatives in the case. This report addresses the issues of whether these likely differences between jurors and commissioners affect (1) the magnitude of awards to property owners, and (2) how the attorneys prepare for and present their cases in court.

The sections of the report that follow present (1) an overview of the study’s methods of analysis, (2) statistical comparisons of awards under the current and the alternative procedures, (3) a summary of attorneys’ views about the two procedures, and (4) a discussion of the study’s results and a recommendation.

## **METHODS OF ANALYSIS**

Case files from VDOT’s right of way offices were the primary source of data on court awards, court testimony, and property appraisals for this report. The authors also attended a number of condemnation trials and worked closely with VDOT’s State Right of Way Engineer, right of way staff, and the Commonwealth’s fee attorneys and fee appraisers in the two-year period since SB 724 became effective. The case data included in the analyses cover the period from January 1,

1991 to November 15, 1993. (Right of way staff advised the authors that cases heard prior to 1991 might be atypical due to the economic recession and the Commonwealth's response to a revenue shortfall).

The research design was influenced by the fact that the real estate market in Northern Virginia often differs greatly from the markets in other areas of the state. For that reason, the outcomes of Northern Virginia jury cases are compared only to the outcomes of Northern Virginia commissioner cases. (Cases in which there were no commissioners or jurors are excluded from the analysis). Similarly, data from Chesterfield County cases were analyzed separately. Table 1 shows the number of cases of each type that were available for the analysis and the jurisdiction in which they were heard.

The total number of jury cases heard in the two-year period (12 in Northern Virginia and 3 in Chesterfield County) is quite small, from a statistical standpoint. Conclusions based on such a small number of cases must necessarily be regarded as tentative.

Throughout the analyses, awards are compared to the highest state appraisal of the property's value. In many instances this appraisal is done by a private fee appraiser hired by the Commonwealth. Although the highest appraisal is sometimes the same as the amount recorded on the certificate of take, the two may differ, since appraisals may be updated or repeated prior to the court hearing. Landowner testimony about the value of property is not used in this analysis, since it is not necessarily given by a qualified professional or expert—it may simply be a person's subjective opinion about the value of their property.

## FINDINGS

### Northern Virginia Commissioner Cases

The sum of the highest state appraisals for 22 Northern Virginia cases heard under the current commissioner system was \$3,896,202. The combined awards for these cases were \$8,104,049, slightly more than twice as much (**208 percent**) as the highest appraisals for the cases. Table 2 shows the highest state appraisal for each case, the commissioners' award, and the award as a percentage of the highest state appraisal.

Clearly, there is considerable variation in the last column of Table 2 (the award as a percentage of state appraisal). In some cases, the commissioners apparently agreed with the state's highest appraisal, because the awards were 100 percent of the state's appraisal and no more. In other instances, however, the awards were 200 percent or more of the highest state testimony. Overall, the data in Table 2

TABLE 1. COURT CASES INCLUDED IN THE SB 724 ANALYSIS, BY LOCALITY

JURISDICTION	COMMISSIONER CASES	JURY CASES
FALLS CHURCH CITY	1	0
FAIRFAX CITY	1	1
FAIRFAX COUNTY	15	8
TOWN OF HERNDON	1	0
LOUDOUN COUNTY	1	3
PRINCE WILLIAM COUNTY	3	0
CHESTERFIELD COUNTY	29	3
TOTAL	51	15

do not reveal any particular trend toward greater discrepancies at either end of the range of values. That is, neither the highest-valued nor the lowest-valued parcels consistently show very high awards relative to state appraisals; the high awards are scattered throughout the range of parcel values. The number of Northern Virginia commissioner cases is sufficiently small that an average (i.e., the statistical mean) percentage for all 22 cases would be greatly distorted by extreme values in the data (e.g., 2174 %, 550 %). The median is another type of average that is less distorted by extreme values in the data. The median value of the awards as a percentage of the highest state appraisal was **130 percent**, meaning that awards for half of the Northern Virginia commissioner cases were less than 130 percent of the state's highest appraisal, and awards for the other half of the commissioner cases exceeded 130 percent of the state's highest appraisal.

### Northern Virginia Jury Cases

The sum of the Commonwealth's highest appraisals for the jury cases heard in Northern Virginia between December 1, 1991 and November 15, 1993 was \$2,413,649. (For one case in which no state testimony on the property's value was permitted by the court, the certificate amount was used in lieu of excluding the case from all of the analyses). The sum of the jury awards for these cases was \$3,186,553, which is **132 percent** of the sum of the highest state appraisals.

Table 3 shows the highest state appraisals, jury awards, and the awards as a percentage of highest state appraisals for the Northern Virginia jury cases. Excluding the one case in which no state testimony on the property's value was allowed, the average (i.e., the median) value of the awards as a percentage of the highest state appraisals was **136 percent**. This means that half of the jury awards were less than 136 percent of the highest state appraisal and half of the jury awards exceeded 136 percent of the highest state appraisal. (It is interesting to note that the corresponding median for the Northern Virginia commissioner trials was similar, 130 percent).

Several other aspects of the jury trial data shown in Table 3 are interesting, although the very small number of cases does not permit unequivocal conclusions. In two of the jury cases, the award was less than the highest state appraisal; this did not occur in any commissioner cases. There was one commissioner case in which the state's appraisal of the property exceeded \$1 million (\$1,128,000) and the commissioners returned an award that was 247 percent of the state appraisal. In the one jury case in which the state's appraisal exceeded \$1 million (\$1,471,012), the jury returned an award that was just 110 percent of the highest state appraisal. Although the details of the individual cases involved are not presented here, the contrast is interesting.

Table 2. Northern Virginia Condemnation Cases Heard under the Current Commissioner Procedure, 1991-1993

Case	Highest State Appraisal	Total Commission Award	Award as a Percent of State Appraisal
1	\$500	\$500	100 %
2	\$1,100	\$1,200	109 %
3	\$3,175	\$3,175	100 %
4	\$9,150	\$15,150	166 %
5	\$10,610	\$13,950	131 %
6	\$14,127	\$77,646	550 %
7	\$17,018	\$370,019	2174 %
8	\$20,379	\$34,000	167 %
9	\$29,000	\$49,616	171 %
10	\$31,288	\$31,288	100 %
11	\$52,550	\$109,000	207 %
12	\$72,443	\$72,500	100 %
13	\$83,450	\$104,984	126 %
14	\$148,750	\$165,438	111 %
15	\$192,000	\$223,406	116 %
16	\$193,047	\$401,805	208 %
17	\$289,722	\$540,699	187 %
18	\$303,343	\$390,142	129 %
19	\$316,600	\$389,800	123 %
20	\$455,000	\$1,797,017	395 %
21	\$524,950	\$525,000	100 %
22	\$1,128,000	\$2,787,714	247 %
<b>TOTAL</b>	<b>\$3,896,202</b>	<b>\$8,104,049</b>	<b>208 %</b>

Table 3. Northern Virginia Condemnation Cases Heard by Juries, 1991-1993

Case	Highest State Appraisal	Total Jury Award	Award as a Percent of State Appraisal
1	\$4,357	\$4,357	100 %
2	\$11,014	\$9,000	82 %
3	\$11,400	\$17,900	157 %
4	\$11,750	\$22,000	187 %
5	\$14,200	\$20,000	141 %
6	\$16,847	\$19,847	118 %
7	\$23,612 <sup>1</sup>	\$156,372	662 % <sup>1</sup>
8	\$31,768	\$93,768	295 %
9	\$34,800	\$30,000	86 %
10	\$332,289	\$453,400	136 %
11	\$450,600	\$740,000	164 %
12	\$1,471,012	\$1,619,909	110 %
<b>TOTAL</b>	<b>\$2,413,649</b>	<b>\$3,186,553</b>	<b>132 %</b>

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<sup>1</sup> No state testimony about the parcel's value was permitted in this case, due to a problem in the pretrial phase. The amount shown for this case only is the certificate of take amount.

## Chesterfield County Commissioner Cases

The sum of the highest state appraisals for the 29 Chesterfield County cases heard under the current system between January 1, 1991 and November 15, 1993 was \$1,055,546. The sum of the commissioners' awards for the cases was \$3,346,752, which is **317 percent** of the sum of the highest appraisals. This is noticeably larger than the corresponding figure for the Northern Virginia commissioner cases (208 percent). The median value of the awards as a percentage of the highest state appraisal was **216 percent**. Hence, half of the commissioner awards in Chesterfield County exceeded 216 percent of the highest state appraisals and half of the awards were less than 216 percent of the highest State appraisal. (The corresponding median for Northern Virginia was much lower, 130 percent). Bearing in mind that these comparisons are based upon a relatively small number of cases, the current system seems to yield noticeably higher awards (relative to state appraisals) in Chesterfield County than in the counties and cities of Northern Virginia.

Table 4 shows the highest state appraisals, the commissioners' awards, and awards as a percentage of the highest appraisals for the Chesterfield County cases heard under the current commissioner system. Compared to the Northern Virginia data, the Chesterfield data include many more parcels appraised at \$40,000 or less, reflecting differences in the real estate markets of the two areas. Analysis of the case files and interviews revealed that damage awards were more common in the Chesterfield cases than in the Northern Virginia cases (data not shown). The appraisal values for the Chesterfield County parcels suggest that the majority of the cases involved residential, rather than commercial properties.

## Chesterfield County Jury Cases

At the time this report was prepared, only three condemnation cases had been heard by juries in Chesterfield County, although a number of jury cases were scheduled to be heard in 1994. Three cases are clearly inadequate for assessing the effects of the alternative procedure on awards in Chesterfield. Interestingly, though, the first jury-heard case tried in Chesterfield (Blanks), is nearly identical to an earlier commissioner-heard case (Duty) in every respect except the panel selection procedure.

The Blanks and Duty properties are next door to one another, and the highest state appraisals for them differed by only \$255 (\$31,550 and \$31,755, respectively). Jurors awarded Mr. and Mrs. Blanks \$36,460, which was 116 percent of the state's highest appraisal. By contrast, a commission selected under the current procedure awarded Ms. Duty \$47,500, which was 154 percent of the state's highest appraisal. In both cases, damages accounted for most of the total award (83 percent of the award in the Blanks case, and 93 percent of the award in the Duty case). The state was

Table 4. Highest State Appraisals and Awards for Chesterfield County Condemnation Cases Heard Under the Commissioner Procedure, 1991-1993

Case	Highest State Appraisal	Total Commission Award	Award as a Percent of State Appraisal
1	\$1,461	\$1,461	100 %
2	\$2,348	\$5,940	253 %
3	\$3,016	\$6,516	216 %
4	\$3,823	\$9,800	256 %
5	\$4,525	\$12,725	281 %
6	\$4,728	\$9,742	206 %
7	\$4,863	\$16,500	339 %
8	\$6,518	\$12,611	193 %
9	\$8,422	\$11,244	134 %
10	\$8,800	\$26,000	295 %
11	\$9,910	\$26,500	267 %
12	\$10,000	\$20,500	205 %
13	\$10,612	\$25,200	237 %
14	\$12,980	\$35,980	277 %
15	\$13,951	\$18,717	134 %
16	\$18,484	\$42,463	230 %
17	\$19,190	\$41,500	216 %
18	\$22,555	\$30,000	133 %
19	\$22,667	\$313,000	1381 %
20	\$23,506	\$85,000	362 %
21	\$25,850	\$53,000	205 %
22	\$26,587	\$43,332	163 %

Table 4. State Appraisals and Awards for Chesterfield County  
Commissioner Cases, cont.

Case	Highest State Appraisal	Total Commission Award	Award as a Percent of State Appraisal
23	\$26,905	\$30,285	113 %
24	\$30,755	\$47,500	154 %
25	\$35,550	\$37,828	107 %
26	\$80,500	\$187,175	233 %
27	\$105,152	\$178,000	169 %
28	\$164,138	\$282,816	172 %
29	\$347,750	\$1,735,417	499 %
<b>TOTAL</b>	<b>\$1,055,546</b>	<b>\$3,346,752</b>	<b>317 %</b>

represented by the same counsel in both cases, as were the two sets of landowners, and the same expert witnesses testified for each side.

Conclusions based upon a comparison of only two Chesterfield cases would be premature. Nonetheless, it is unusual to encounter two cases that are so nearly identical in every respect except the panel selection procedure. It is unlikely that cases any more similar than Blanks and Duty will be identified during the effective period of SB 724.

### Attorneys' Views

The Commonwealth's fee attorneys have been asked to share their thoughts about the alternative jury system several times since December 1991. This section summarizes the views of five fee counsel in Northern Virginia and one in Chesterfield County regarding the alternative jury procedures.

Northern Virginia fee attorneys have a range of opinions about the jury alternative. Two attorneys favor repeal of the SB 724 legislation, while the other three are neutral or favorable toward condemnation juries. Those who favor repeal say that the commissioner system has served Northern Virginia well, and that jurors lack the necessary technical expertise to understand the evidence presented in condemnation trials (e.g., comparable sales).

All of the attorneys interviewed agree that trials heard by juries are more time-consuming than those heard by commissions. Longer trials are primarily the result of two things: a lengthier, more detailed voir dire process to select jurors and the need to explain real estate concepts much more carefully to jurors. (Voir dire is the courtroom process in which attorneys for both sides ask prospective jurors about their place of employment, length of time in current job, and other background information). The Northern Virginia attorneys tend to know the individuals who routinely serve as commissioners under the current system, and they assume that the commissioners understand certain real estate concepts (e.g., floor area ratio, comparable sales, Comprehensive Plan, and zoning classifications). Attorneys told the authors that in Chesterfield County, however, compared to Northern Virginia, there is less of a tendency for the same commissioners to serve repeatedly. For that reason, the authors suspect that in Chesterfield, the amount of time spent in voir dire may be more similar for jurors and commissioners than it is in Northern Virginia.

The Northern Virginia attorneys made several other observations about the effects of jurors' unfamiliarity with real estate concepts. Several attorneys commented that jury trials require more costly exhibits and more paid professional witnesses than commissioner trials do. Some attorneys voiced concerns that jurors might be susceptible to less bona fide legal arguments than commissioners would be, and that over time, more of these invalid arguments would be made. One Northern

Virginia attorney, however, felt that jurors were more open-minded about property values than commissioners tend to be. Commissioners, he said, tend to have preconceived ideas about values because they frequently have occupations in real estate or lending. This attorney also thought that jurors listened more carefully to the judge's instructions than commissioners generally do.

On the most important issue, whether the Commonwealth's current system yields higher awards than the experimental jury system, none of the attorneys interviewed could detect any definite trend. They said that some of the jury awards had been rather favorable (to the Commonwealth) and some had been rather unfavorable. Given the small number of jury trials held thus far and the variability of the awards, it is not surprising that no discernible trend has been evident to individual attorneys.

Attorneys' opinions are divided on the question of whether the unpredictability of juries' awards has led to more settlements out of court (i.e., agreements after certificate). One Northern Virginia attorney is convinced that property owners' attorneys are uncomfortable with the new system, and that they go to greater lengths to settle potential jury cases outside of court. Another Northern Virginia attorney, however, said that the unpredictability of juries' actions has made some landowners' attorneys less inclined to settle cases. With a completely new jury each time, he said, these landowners' attorneys are often inclined to "take their chances." Overall, the attorneys' comments indicate that the current commissioner system is viewed as more of an "expert panel" in Northern Virginia than may be the case in Chesterfield County and elsewhere.

Apparently there has been uncertainty about how to treat condemnation jurors in Northern Virginia. This uncertainty compelled a judge to ask one of the researchers (who was observing a trial) the following questions: Should the voir dire questions remain the same? Is there uniformity in how jurors are addressed in all condemnation trials conducted under the alternative system? Should the jurors be treated like lay jurors, commissioners, or something else? What was the General Assembly's intent in SB 724? These questions suggest that perhaps it may take a period of time for judges and attorneys to become comfortable with the alternative jury procedure.

## DISCUSSION AND RECOMMENDATIONS

The statistical analysis of the awards made by condemnation juries and commissions in Northern Virginia suggests that jury awards may tend to be lower than commissioner awards. All of the jury cases available for analysis from the Northern Virginia Transportation District cost the Commonwealth 132 percent of the state's highest appraisals, while a sample of commissioner cases from that district cost the Commonwealth 208 percent of the state's highest appraisals. Although there have

been too few jury cases held thus far in Chesterfield County to perform any statistical comparisons, the outcomes of the nearly-identical Blanks and Duty cases suggest that jury awards may ultimately be lower in Chesterfield County. Time will tell.

Unfortunately, the difference between 208 percent and 132 percent for Northern Virginia could simply be due to the small sample of cases analyzed. At this juncture, the Commonwealth's fee attorneys in Northern Virginia have not detected any trend toward lower awards by juries. If a larger number of cases were included in the comparisons, more conclusive results might be obtained. The sample of commissioner-heard cases could be expanded by going back farther in time, but the small number of jury-heard cases in the analysis can only be remedied by waiting for more jury trials to occur. The extension of the SB 724 legislation to Chesterfield County will certainly increase the number of jury cases available for analysis. In the authors' view, however, the number of additional jury trials likely to occur between December 1, 1993 and July 1, 1994 (the legislation's current expiration date) will be insufficient to reach any firm conclusions about the effects of the alternative selection procedures on awards.

Our research thus far suggests that the current commissioner system may operate differently in Northern Virginia than it does in other parts of the Commonwealth (i.e., as more of an "expert panel"). The available data from Chesterfield County indicate that commissioners' awards there exceed State testimony by a greater percentage than is generally the case in Northern Virginia. Thus, Chesterfield County may well provide a better "test" of the alternative jury procedure than Northern Virginia has. It is quite unlikely, however, that a one year test (July 1, 1993—July 1, 1994) in Chesterfield County will provide a sufficient number of cases to reach definite conclusions about the effects of the alternative procedures on awards. For the reasons outlined above, the authors recommend an extension of the July 1, 1994 expiration date of SB 724, to permit a more complete and thorough assessment of the effects of the alternative procedures on the magnitude of awards. In the authors' view, an extension of at least two years (until July 1, 1996) is needed to obtain an adequate number of additional jury cases.

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