

VIRGINIA ACTS OF ASSEMBLY -- 2002 RECONVENED SESSION

CHAPTER 839

An Act to amend and reenact § 2.2-1509 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 2.2-1503.1 and 2.2-1509.1 and by adding in Chapter 15 of Title 2.2 a section numbered 2.2-1514, relating to the planning and funding of capital projects.

[S 402]

Approved April 17, 2002

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-1509 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding sections numbered 2.2-1503.1 and 2.2-1509.1 and by adding in Chapter 15 of Title 2.2 a section numbered 2.2-1514 as follows:

§ 2.2-1503.1. Filing of six-year capital improvement plan by Governor.

A. For purposes of this section:

"Capital outlay project" means acquisition of real property (including buildings or plant) or machinery or equipment, new construction, and improvements related to state-owned real property, buildings, plant, machinery or equipment (including plans therefor). It shall include any improvements to real property leased for use by a state agency, and not owned by the Commonwealth, when such improvements are financed by public funds and become state property upon the expiration of the lease. Capital outlay projects do not include projects that have been included in the Commonwealth Transportation Board's Six-Year Improvement Program.

B. On or before November 1 of the year immediately prior to the beginning of each regular session of the General Assembly held in an even-numbered year, the Governor shall submit to the members of the General Assembly a six-year capital improvement plan. The plan shall include all capital outlay projects that the Governor deems necessary for the six fiscal years immediately following the current fiscal year. The plan shall:

- 1. Identify each capital outlay project;*
- 2. Describe the scope and nature of the project;*
- 3. Provide an estimate of the total cost of each project upon payment in full;*
- 4. Detail, by fiscal year, the source or sources of funds recommended for each capital outlay project;*
- 5. Explain the specific criteria or justification that was used in determining the fiscal year in which funds were allocated to projects; and*
- 6. Include any other information as may be requested by the General Assembly.*

Any capital outlay project that requires additional funds in excess of the latest estimate submitted to the General Assembly, shall be included in the six-year plan with an updated estimate of the total cost as provided herein.

C. The capital improvement plan shall include a list of capital outlay projects that would be funded in whole or in part from general funds for each of the succeeding fiscal years in an amount equal to at least two percent of the anticipated general fund revenues for the respective fiscal year, as such revenues are estimated pursuant to § 2.2-1503. The amount of general funds included in the capital improvement plan shall be in addition to any allocation to capital outlay projects from the Central Maintenance Reserve of the general appropriation act.

§ 2.2-1509. Budget bill.

A. On or before December 20 of the year immediately prior to the beginning of each regular session of the General Assembly held in an even-numbered year, the Governor also shall submit to the presiding officer of each house of the General Assembly, at the same time he submits "The Executive Budget," copies of a tentative bill for all proposed appropriations of the budget, for each year in the ensuing biennial appropriation period, which shall be known as "The Budget Bill." "The Budget Bill" shall be organized by function, primary agency, and proposed appropriation item and shall include an identification of, and authorization for, common programs and the appropriation of funds according to programs. Except as expressly provided in an appropriation act, whenever the amounts in a schedule for a single appropriation item are shown in two or more lines, the portions of the total amount shown on separate lines are for information purposes only and are not limiting. No such bill shall contain any appropriation the expenditure of which is contingent upon the receipt of revenues in excess of funds unconditionally appropriated.

B. The salary proposed for payment for the position of each cabinet secretary and administrative head of each agency and institution of the executive branch of state government shall be specified in "The Budget Bill," showing the salary ranges and levels proposed for such positions.

C. "The Budget Bill" shall include all proposed capital appropriations, including each capital project to be financed through revenue bonds or other debt issuance, the amount of each project, and the

identity of the entity that will issue the debt.

D. Concurrently with the submission of "The Budget Bill," the Governor shall submit a tentative bill involving a request for authorization of additional bonded indebtedness if its issuance is authorized by, or its repayment is proposed to be made in whole or in part, from revenues or appropriations contained in "The Budget Bill."

E. On or before December 20 of the year immediately prior to the beginning of each regular session held in an odd-numbered year of the General Assembly, the Governor shall submit to the presiding officer of each house printed copies of all gubernatorial amendments proposed to the general appropriation act adopted in the immediately preceding even-numbered year session. In preparing the amendments, the Governor may obtain estimates in the manner prescribed in §§ 2.2-1504, 2.2-1505, and 2.2-1506. On the same date he shall also submit a tentative bill during the second year of the appropriation period, a request for authorization of additional bonded indebtedness if its issuance is authorized by, or its repayment is proposed to be made in whole or in part, from revenues or appropriations contained in the proposed gubernatorial amendments.

F. *The proposed capital appropriations or capital projects described in, or for which proposed appropriations are made pursuant to, this section shall include the capital outlay projects required to be included in "The Budget Bill" pursuant to § 2.2-1509.1. The Governor shall propose appropriations for such capital outlay projects in "The Budget Bill" in accordance with the minimum amount of funding and the designated sources of funding for such projects as required under § 2.2-1509.1.*

§ 2.2-1509.1. *Budget bill to include appropriations for capital outlay projects.*

A. *For purposes of this section:*

"Projected general fund revenues" for a fiscal year means the estimated general fund revenues for such year as contained in the six-year revenue plan submitted in the prior calendar year pursuant to § 2.2-1503.

"Capital outlay project" means the same as that term is defined in § 2.2-1503.1.

B. *In "The Budget Bill" submitted pursuant to § 2.2-1509, the Governor shall provide for the funding of capital outlay projects, as specified herein. Such funding recommendations shall be in addition to any appropriation for capital outlay projects from the Central Maintenance Reserve of the general appropriation act.*

1. *The Governor shall include in "The Budget Bill" submitted pursuant to § 2.2-1509 a biennial appropriation for the capital improvement plan required by § 2.2-1503.1. The biennial appropriation shall not be less than two percent of the projected general fund revenues for the biennium.*

a. *When the projected general fund revenues for a fiscal year or years are eight percent or greater than the projected general fund revenues for the immediately preceding fiscal year the amount of the biennial appropriation for the capital improvement plan that the Governor shall provide from general fund revenues shall not be less than two percent of the projected general fund revenues for each fiscal year.*

b. *When the projected general fund revenues for a fiscal year or years are at least five percent but less than eight percent greater than the projected general fund revenues for the immediately preceding fiscal year, the Governor may recommend funding of up to one-half of the required biennial appropriation from alternative financing mechanisms, including, but not limited to, bonded indebtedness. The Governor shall submit such bill or bills for consideration by the General Assembly as are necessary to implement such alternative financings, and shall include in "The Budget Bill" submitted pursuant to § 2.2-1509 proposed appropriations from general fund revenues for the remaining one-half of the required biennial appropriation.*

c. *When the projected general fund revenues for a fiscal year or years are less than five percent greater than the projected general fund revenues for the immediately preceding fiscal year, the Governor may recommend funding of up to the entire required biennial appropriation from alternative financing mechanisms, including, but not limited to, bonded indebtedness. The Governor shall submit such bill or bills for consideration by the General Assembly as are necessary to implement such alternative financings.*

2. *In implementing the provisions of this section, the amount of general funds to be included in the biennial appropriation for the capital improvement plan shall be calculated on a year-to-year basis, but may be apportioned on a biennial basis; provided, however, that the combined total of general fund appropriations and alternative financing mechanisms for the capital improvement plan included in "The Budget Bill" submitted pursuant to § 2.2-1509 shall equal at least two percent of the projected general fund revenues for the biennium.*

C. *The capital outlay projects proposed under this section and to be included in "The Budget Bill" submitted pursuant to § 2.2-1509 shall be consistent with those capital outlay projects included in the corresponding fiscal year of the current six-year capital improvement plan submitted under § 2.2-1503.1. The Governor may deviate from the plan and may propose other projects in "The Budget Bill" so long as he substantially complies with the capital improvement plan and justifies the inclusion of such other projects.*

§ 2.2-1514. *Designation of general fund for nonrecurring expenditures.*

A. As used in this section:

"The Budget Bill" means the "The Budget Bill" submitted pursuant to § 2.2-1509, including any amendments to a general appropriation act pursuant to such section.

"Nonrecurring expenditures" means the acquisition or construction of capital outlay projects as defined in § 2.2-1503.1, the acquisition or construction of capital improvements, the acquisition of land, the acquisition of equipment, or other expenditures of a one-time nature as specified in the general appropriation act.

B. At the end of each fiscal year, the Comptroller shall designate within his annual report pursuant to § 2.2-813 an amount for nonrecurring expenditures, which shall equal the remaining amount of the general fund balance that is not otherwise reserved or designated. No such designation shall be made unless the full amounts required for other reserves or designations including, but not limited to, (i) the Revenue Stabilization Fund deposit pursuant to § 2.2-1829, (ii) the Virginia Water Quality Improvement Fund deposit pursuant to § 10.1-2128, (iii) capital outlay reappropriations pursuant to the general appropriation act, (iv) operating expense reappropriations pursuant to the general appropriation act, and (v) the unappropriated balance anticipated in the general appropriation act for the end of such fiscal year are set aside.

C. The Governor shall include in "The Budget Bill" pursuant to § 2.2-1509 recommended appropriations from the general fund or recommended amendments to general fund appropriations in the general appropriation act in effect at that time an amount for nonrecurring expenditures equal to the amount designated by the Comptroller for such purpose pursuant to the provisions of subsection B of this section.

2. That the provisions of this act shall be effective July 1, 2002, except that the designation of any general fund balance for nonrecurring expenditures pursuant to § 2.2-1514 shall begin in the fiscal year starting July 1, 2004.

3. That it is the intent of the General Assembly that the capital projects set forth in SB 31/HB 99, SB 672/HB 1144, and SB 673/HB 1284, as such bills are passed by the 2002 Session of the General Assembly and enacted into law, to the extent practicable, shall be funded using general or nongeneral funds. To the extent that general or nongeneral funds are used to supplant the authorized debt funding for any such capital project, the debt authorization allocated to such capital project pursuant to such bills shall be decreased by the amount of general or nongeneral funds used to fund the capital project.

For purposes of this enactment, "general or nongeneral funds" means any or all funds, including transfer payments, but shall not include funds that are derived, either directly or indirectly, from any debt or other payment obligations incurred or entered into by the Commonwealth. "Debt or other payment obligations" means a source of funding, either directly or indirectly, through bonded indebtedness or other borrowings of the Commonwealth or its political subdivisions.

4. That, except as provided herein, the Commonwealth shall not incur more than a total of \$250 million in debt or other payment obligations in any fiscal year for the capital projects set forth in SB 31/HB 99, SB 672/HB 1144, and SB 673/HB 1284, as such bills are passed by the 2002 Session of the General Assembly and enacted into law. Provided, however, if the Commonwealth incurs less than a total of \$250 million in debt or other payment obligations in any fiscal year for such capital projects pursuant to such bills, the difference between \$250 million and the amount of debt or other payment obligations incurred in the fiscal year may be incurred in any other subsequent fiscal year for purposes of financing such capital projects. Only under this circumstance may the Commonwealth incur more than a total of \$250 million in debt or other payment obligations in a fiscal year for such capital projects.

For purposes of this enactment "debt or other payment obligations" has the same meaning as in the third enactment except that it shall not include the (i) issuance costs, capitalized interest, reserve funds, and other financing expenses directly relating to bonds issued for such capital projects or (ii) bond anticipation notes, refunding bonds, or refunding bond anticipation notes issued or directly relating to such capital projects authorized under such bills.