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**SENATE BILL NO. 402**

Offered January 9, 2002

Prefiled January 9, 2002

*A BILL 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 appropriations for nonrecurring expenditures and a plan for funding certain capital projects.*

Patrons—Chichester; Delegate: Almand

Referred to Committee on Finance

**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 and new construction and improvements related to state-owned real property, plant, 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 August 15 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 provide funding for capital outlay projects 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, and the plan shall also include a list of capital outlay projects, funded all or in part by general funds. 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*

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59 head of each agency and institution of the executive branch of state government shall be specified in  
60 "The Budget Bill," showing the salary ranges and levels proposed for such positions.

61 C. "The Budget Bill" shall include all proposed capital appropriations, including each capital project  
62 to be financed through revenue bonds or other debt issuance, the amount of each project, and the  
63 identity of the entity that will issue the debt.

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

68 E. On or before December 20 of the year immediately prior to the beginning of each regular session  
69 held in an odd-numbered year of the General Assembly, the Governor shall submit to the presiding  
70 officer of each house printed copies of all gubernatorial amendments proposed to the general  
71 appropriation act adopted in the immediately preceding even-numbered year session. In preparing the  
72 amendments, the Governor may obtain estimates in the manner prescribed in §§ 2.2-1504, 2.2-1505, and  
73 2.2-1506. On the same date he shall also submit a tentative bill during the second year of the  
74 appropriation period, a request for authorization of additional bonded indebtedness if its issuance is  
75 authorized by, or its repayment is proposed to be made in whole or in part, from revenues or  
76 appropriations contained in the proposed gubernatorial amendments.

77 *F. The proposed capital appropriations or capital projects described in, or for which appropriations*  
78 *are made pursuant to, this section shall be funded in "The Budget Bill" in accordance with the minimum*  
79 *amount of funding and the designated sources of funding for capital outlay projects as required under*  
80 *§ 2.2-1509.1.*

81 *§ 2.2-1509.1. Budget bill to include appropriations for capital outlay projects.*

82 *A. For purposes of this section:*

83 *"Anticipated general fund revenues" for a fiscal year means the estimated general fund revenues for*  
84 *such year as contained in the six-year revenue plan submitted in the prior calendar year pursuant to*  
85 *§ 2.2-1503.*

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

87 *B. In the budget bill submitted pursuant to § 2.2-1509, the Governor shall provide for the funding of*  
88 *capital outlay projects, as specified herein. Such funding recommendations shall be in addition to any*  
89 *appropriation for capital outlay projects from the Central Maintenance Reserve of the general*  
90 *appropriation act.*

91 *1. The Governor shall include in the budget bill submitted pursuant to § 2.2-1509 a biennial*  
92 *appropriation for a capital improvement plan, which shall consist exclusively of capital outlay projects*  
93 *funded all or in part by general funds. The biennial appropriation shall not be less than two percent of*  
94 *the projected general fund revenues for the biennium.*

95 *a. The amount of the biennial appropriation for capital outlay projects included in the capital*  
96 *improvement plan that the Governor shall provide funding from the general fund shall not be less than*  
97 *two percent of the anticipated general fund revenues for each fiscal year for which anticipated general*  
98 *fund revenues are at least eight percent or greater than the anticipated general fund revenues for the*  
99 *immediately preceding fiscal year.*

100 *b. When the anticipated general fund revenues for a fiscal year or years are at least five percent but*  
101 *less than eight percent greater than the anticipated general fund revenues for the immediately preceding*  
102 *fiscal year, the Governor may recommend funding of up to one-half of the required biennial*  
103 *appropriation from alternative financing mechanisms, including, but not limited to, bonded indebtedness.*  
104 *The Governor shall submit such bill or bills for consideration by the General Assembly as are necessary*  
105 *to implement such alternative financings, and shall include in the budget bill submitted pursuant to*  
106 *§ 2.2-1509 proposed appropriations from the general fund for the remaining one-half of the required*  
107 *biennial appropriation.*

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

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

120 *C. The capital outlay projects proposed under this section 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 shall provide explanations for deviations from the plan related to changes in scope, elimination or addition of projects, and such additional information as may be requested by the General Assembly.

§ 2.2-1514. Nonrecurring Expenditure Fund established.

A. There is hereby established in the state treasury a special permanent, nonreverting fund to be known as the Nonrecurring Expenditure Fund. The Fund shall be established on the books of the Comptroller and, subject to the provisions of subsection B, shall consist of such moneys as appropriated to it by the General Assembly, which shall include, unless otherwise provided in the general appropriation act, (i) the amount of unobligated and undesignated general fund revenue collections for each fiscal year that are in excess of the projected general fund revenues in the general appropriation act for such fiscal year, as certified by the Comptroller, and (ii) an amount equal to the projected abnormal growth in the nonwithholding portion of individual income taxes, as certified by the Comptroller. For purposes of this subsection, the projected abnormal growth in the nonwithholding portion of individual income taxes means an amount equal to the percentage growth rate in such nonwithholding portion that is in excess of the average growth rate in such nonwithholding portion for the most recently ended four fiscal years. The projected abnormal growth shall be determined using the projected growth in the nonwithholding portion of individual income taxes included in the general appropriation act for the current fiscal year.

Deposits to the Fund of the amount described in clause (i) shall be made by the Comptroller no later than the last day of the fiscal year following the fiscal year for which such revenues were realized. Deposits to the Fund of the amount described in clause (ii) shall be made by the Comptroller no later than the last day of the fiscal year following the fiscal year for which such abnormal growth is projected in the general appropriation act.

B. No deposit shall be made to the Fund in any fiscal year unless the full amount that is required to be deposited to (i) the Revenue Stabilization Fund as required pursuant to § 2.2-1829, and (ii) the Virginia Water Quality Improvement Fund as required pursuant to § 10.1-2128 for such fiscal year has been deposited to such funds by the Comptroller.

C. Moneys in the Fund shall be used only to pay for or finance nonrecurring expenses as provided in the general appropriation act, including, but not limited to, 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, or the acquisition of equipment. Interest on all moneys in the Fund shall remain in the Fund and be credited to it. Any moneys deposited to or remaining in the Fund during or at the end of each fiscal year or biennium, including interest thereon, shall not revert to the general fund but shall remain in the Fund and be available for future appropriation by the General Assembly for nonrecurring expenses.