

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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

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 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 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.

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

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

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

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

78 *§ 2.2-1509.1. Budget bill to include appropriations for capital outlay projects.*

79 *A. For purposes of this section:*

80 *"Anticipated general fund revenues" for a fiscal year means the estimated general fund revenues for*
 81 *such year as contained in the six-year revenue plan submitted in the prior calendar year pursuant to*
 82 *§ 2.2-1503.*

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

84 *"Projected general fund revenues" means the total general fund resources available for appropriation*
 85 *for the biennium as projected and reported in the general appropriation act.*

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

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

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

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

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

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

"Nonwithholding revenue" means the amount of individual income tax revenue collected from sources other than withholding from employees' wages pursuant to Article 16 (§ 58.1-460 et seq.) of Chapter 3 of Title 58.1.

"Projected above-average growth in nonwithholding revenue" means the product obtained by multiplying (i) the rate of nonwithholding revenue change, as defined below, by (ii) the projected nonwithholding revenues included in the general appropriation act for the fiscal year.

"Rate of nonwithholding revenue change" means the difference between the projected percentage growth in nonwithholding revenues for the subsequent fiscal year and the actual average percentage growth in nonwithholding revenues for the four most recently ended fiscal years. The rate of nonwithholding revenue change shall equal zero when the percentage change in nonwithholding revenues is projected to be zero or less than zero.

B. 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 C, shall consist of such moneys as are appropriated to it by the General Assembly. In addition, 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, and (ii) an amount equal to the projected above-average growth in nonwithholding revenue, as both are certified by the Comptroller, shall be credited to the Fund. The Comptroller shall certify the amounts to be deposited to the Fund to the Governor and to the Chairman of the Senate Finance Committee and to the Chairman of the House Appropriations Committee by December 20 of each year. Amounts designated for deposit to the Fund shall remain designated and reserved for a period of two years. The Governor shall include in "The Budget Bill" submitted pursuant to § 2.2-1509 the projected nonwithholding revenues for each fiscal year, and shall designate the amount of projected above-average growth in nonwithholding revenue for each fiscal year of the biennium, said amount to be included as an appropriation to the Fund.

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 for which the above-average growth is projected in the general appropriation act.

C. 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.

D. 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 such nonrecurring expenses.

2. That the provisions of this act shall be effective July 1, 2002, except that deposits to the Nonrecurring Expenditure Fund established under § 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

179 capital project pursuant to such bills shall be decreased by the amount of general or nongeneral
180 funds used to fund the capital project.

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

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

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