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HOUSE BILL NO. 1308

Offered January 18, 2002

A BILL to amend and reenact § 2.2-1505 of the Code of Virginia, relating to the Department of Planning and Budget; disbursements to nonstate agencies.

Patron—Bryant

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-1505 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-1505. Estimates by nonstate agencies of amounts needed.

A. Except as provided in §§ 10.1-2211, 10.1-2212, and 10.1-2213, no state funds shall be appropriated or expended for, or to, nonstate agencies unless:

1. A request for state aid is filed by the organization with the Department of Planning and Budget; as required by § 2.2-1504 in accordance with the procedures (i) specified in § 10.1-2213, in the case of aid sought for historic preservation efforts; (ii) set forth in subsection C, in the case of direct aid for general operations sought for arts, humanities, and cultural institutions; or (iii) established by the Department, in the case of appropriations sought for any other purpose.

2. The nonstate agency certifies to the satisfaction of the Department that matching funds are available in cash from local or private sources in an amount at least equal to the amount of the request. These matching funds shall be concurrent with the purpose for which state funds are requested. Contributions received and spent prior to the state grant shall not be considered in satisfying the requirements of this subdivision.

3. The nonstate agency provides documentation of its tax exempt status under § 501 (c) (3) of the United States Internal Revenue Code.

B. Except as provided in §§ 23-38.11 through 23-38.18, no state funds shall be appropriated to, or expended for, a private institution of higher education or religious organization.

C. Applications of arts, humanities and cultural institutions for direct appropriations of state aid for general operations shall be governed by the following procedures:

1. Applications for state aid shall be submitted to the Department no later than March 1 in odd-numbered years. Applications shall be in a format prescribed by the Department and shall address requests for direct aid for general operations during the biennium that commences on July 1 of the immediately succeeding, even-numbered year.

2. The Department shall refer applications for direct state aid submitted by institutions and entities principally devoted to the arts to the Virginia Commission for the Arts (the "Commission"), and applications submitted by institutions and entities principally devoted to the humanities and sciences to the Virginia Foundation for the Humanities (the "Foundation"), for review and nonbinding recommendation in accordance with the provisions of subsection C.

3. The Commission and the Foundation shall, following an opportunity for public comment, establish procedures for the review of applications for state aid by advisory panels comprised of (i) persons knowledgeable in particular fields of the arts, humanities and culture in which applicants are engaged, (ii) persons knowledgeable in the management of nonprofit institutions, and (iii) other interested citizens of the Commonwealth.

4. In reviewing applications for state aid, the Commission and the Foundation, and all advisory panels convened by either, shall consider factors including, but not limited to, the quality of programming and collections for which aid is sought, the fiscal management and stability of the applicant, the extent to which the applicant's programs and collections enhance broad access to arts, humanities and cultural opportunities throughout the Commonwealth and for all citizens of the Commonwealth, and the levels of community service provided by, and community support achieved by, the applicant.

5. The Commission and the Foundation shall, upon completion of the review of applications by advisory panels and in any event no later than October 1 of the year in which application is made, report to the Governor and the Chairmen of the Senate Committee on Finance and House Committee on Appropriations their recommendations regarding the applications referred to them. Such recommendations shall be purely advisory in nature and shall not be binding upon the Governor or the General Assembly.

D. For the purposes of this section, a "nonstate agency" :

"Arts, humanities and cultural institutions" mean not-for-profit institutions or entities principally

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59 *engaged within the Commonwealth in the presentation, preservation, propagation or encouragement of,*
60 *or education with respect to, form of human creativity expressed through (i) the arts, including music,*
61 *dance, theater, film, painting, sculpture, crafts, photography, fiction, and poetry; (ii) the humanities,*
62 *including history, folklife, literature, language, philosophy and ethics, religious studies, archaeology,*
63 *anthropology, and jurisprudence; or (iii) the study of the sciences. Entities principally engaged in*
64 *historic preservation efforts, as described in § 10.1-2213, are not arts, humanities, or cultural*
65 *institutions for the purposes of this section.*

66 *"Direct appropriations for state aid" means appropriations to specific nonstate agencies with the*
67 *appropriation act. Direct appropriations for state aid shall not include grant programs operated*
68 *pursuant to general law or general, nonspecific appropriation authority by the Commission, the*
69 *Foundation, or other agencies or institutions of state government.*

70 *"General operations" means operation of arts, humanities, and cultural programming, collection*
71 *acquisition and management, and education, excluding capital investments and other extraordinary,*
72 *nonrecurring expenses.*

73 *"Nonstate agency" means any public or private foundation, authority, institute, museum, corporation*
74 *or similar organization that is not a unit of state government or a political subdivision of the*
75 *Commonwealth as established by general law or special act. It shall not include any such entity that*
76 *receives state funds as a subgrantee of a state agency or through a state grant-in-aid program authorized*
77 *by law.*