

## **Department of Planning and Budget**

### **2010 Fiscal Impact Statement**

**1. Bill Number:** SB718

House of Origin    ☐ Introduced       ☐ Substitute       ☐ Engrossed  
Second House       ☒ In Committee    ☐ Substitute       ☐ Enrolled

**2. Patron:**        Norment

**3. Committee:** Counties, Cities and Towns

**4. Title:**            **Private capital lending for local governments and public institutions of higher education**

**5. Summary:** Allows local governments and public institutions of higher education to enter into certain conduit lending agreements to finance certain capital projects. The proposed legislation would allow a local government or public institution of higher education to enter into a financing agreement to:

- convey title to any property that is part of a project as defined in this chapter to a conduit or other entity in exchange for consideration provided for under the financing agreement.
- assign, pledge to, and create a lien in favor of a conduit (defined as a 501(c)(3) of the Internal Revenue Code that qualifies as a public charity under § 509(a)(2) of 509(a)(3) of the Internal Revenue Code) or other entity, and permit the conduit or other entity to reassign, pledge to, and create a lien in favor of a private capital funding source, any revenues derived from the project being financed as provided under the financing agreement.
- enter into a lease-leaseback arrangement for a term not to exceed 99 years, under which the funding source will lease from the conduit or entity, and the conduit or entity has the power to contribute to the local government any funds received by it in excess of the payments it is required to make to the private capital funding source under the lease-leaseback arrangement and has the power to convey the conveyed property back to the local government when the property is no longer encumbered by any lien or lease in favor of the funding source.
- enter into a financing agreement under this section either through a competitive selection process or by direct negotiations with a private capital funding source, as determined by the local government or as otherwise provided by law.
- public institutions of higher education require approval of the Governor to enter into any financing agreement for any revenue-generating undertaking.

**6. Fiscal Impact Estimates:** Preliminary. Not available

**7. Budget Amendment Necessary:** No

- 8. Fiscal Implications:** The Department of the Treasury commented that institutions of higher education will need to ensure that any such financing agreement authorized under this legislation does not jeopardize existing financing arrangements (e.g., through the Virginia College Building Authority, the Virginia Public Building Authority or general obligation bonds of the Commonwealth).

The Department of General Services also stated that the PPEIA process, Public-Private Educational Facilities and Infrastructure Act, provides many alternative financing opportunities as does this legislation.

**9. Specific Agency or Political Subdivisions Affected:**

Local governments  
Public institutions of higher education  
Private capital financing entity  
Department of the Treasury  
Department of General Services

**10. Technical Amendment Necessary:** No

**11. Other Comments:** None

**Date:** 02/17/10/aps

**Document:** g:/aps/legislation/2010sess/SB718E.doc