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SENATE BILL NO. 1399

Offered January 14, 2009

Prefiled January 14, 2009

A BILL to amend and reenact §§ 2.2-1505 and 10.1-2213 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 25 of Title 2.2 an article numbered 10, consisting of a section numbered 2.2-2537, relating to funding for nonstate entities; the Virginia Commission for Allocating Funds to Nonstate Agencies.

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Referred to Committee on Rules

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-1505 and 10.1-2213 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 25 of Title 2.2 an article numbered 10, consisting of a section numbered 2.2-2537 as follows:

§ 2.2-1505. Allocation of appropriations to nonstate agencies.

A. Except for appropriations or expenditures as provided in §§ 10.1-2211, 10.1-2211.1, 10.1-2212, and 10.1-2213, and 10.1-2213.1, no state funds shall be appropriated or expended allocated 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.;

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 funds requested by the nonstate agency. 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, or allocated to a private institution of higher education or religious organization.

C. For the purposes of this section, a "nonstate agency" means any public or private foundation, authority, institute, museum, corporation or similar organization that is not a unit of state government or a political subdivision of the Commonwealth as established by general law or special act. It shall not include any such entity that receives state funds as a subgrantee of a state agency or through a state grant-in-aid program authorized by law.

D. Except for appropriations or expenditures as provided in §§ 10.1-2211, 10.1-2211.1, 10.1-2212, 10.1-2213, and 10.1-2213.1, all appropriations for nonstate agencies shall be made in a lump sum amount, and such appropriations shall not dedicate or otherwise allocate a specific dollar amount of funding to any nonstate agency. However, such appropriations may specifically list, describe, or otherwise identify nonstate agencies eligible for funding under the lump sum appropriation. The Virginia Commission for Allocating Funds to Nonstate Agencies shall be responsible for apportioning or allocating such lump sum appropriations among nonstate agencies pursuant to § 2.2-2537.

Article 10.

The Virginia Commission for Allocating Funds to Nonstate Agencies.

§ 2.2-2537. The Virginia Commission for Allocating Funds to Nonstate Agencies; purpose; membership; compensation.

A. As used in this section, the term "nonstate agency" means the same as such term is defined under § 2.2-1505.

B. The Virginia Commission for Allocating Funds to Nonstate Agencies (the "Commission") is established in the legislative branch of state government. The purpose of the Commission shall be to allocate all lump sum appropriations for nonstate agencies included in the general appropriation act, as provided under subsection D of § 2.2-1505.

C. The Commission shall have a total membership of nine that shall consist of six legislative members and three ex officio members. Members shall be appointed as follows: three members of the Senate, to be appointed by the Senate Committee on Rules, and three members of the House of Delegates, to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates. The Secretaries of Education, Health and Human Services, and Natural Resources shall serve ex officio with voting

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59 *privileges.*

60 *Legislative members shall serve on the Commission until the expiration of their terms of office or*
61 *until their successors shall qualify. The Secretaries of Education, Health and Human Services, and*
62 *Natural Resources shall serve terms coincident with their terms of office.*

63 *D. The members of the Commission shall elect from among the legislative membership a chairman*
64 *and a vice-chairman who shall serve for two-year terms. The Commission shall meet at the call of the*
65 *chairman or whenever a majority of the members so request.*

66 *E. The Commission may develop and issue guidelines for purposes of allocating all lump sum*
67 *appropriations for nonstate agencies included in the general appropriation act. The development and*
68 *issuance of the guidelines shall be exempt from the provisions of the Administrative Process Act*
69 *(§ 2.2-4000 et seq.).*

70 *F. Legislative members of the Commission shall receive such compensation as is set forth in*
71 *§ 30-19.12. All members shall be reimbursed for all reasonable and necessary expenses incurred in the*
72 *performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for compensation and*
73 *reimbursement of expenses of the members shall be provided from existing appropriations to the*
74 *Commission.*

75 *G. Administrative staff support shall be provided by the Office of the Clerk of the Senate or the*
76 *Office of the Clerk of the House of Delegates as may be appropriate for the house in which the*
77 *chairman of the Commission serves. The Division of Legislative Services shall provide legal, research,*
78 *policy analysis, and other services as requested by the Commission. All agencies of the Commonwealth*
79 *shall assist the Commission, upon request.*

80 *§ 10.1-2213. Procedure for appropriation of state funds for historic preservation.*

81 *A. No state funds, other than for the maintenance and operation of those facilities specified in*
82 *§ 10.1-2211 or 10.1-2212 and for the purchase of property for preservation of historical resources by the*
83 *Virginia Land Conservation Foundation as provided in Chapter 10.2 (§ 10.1-1017 et seq.) of this title,*
84 *shall be appropriated or expended for or to historical societies, museums, foundations, associations, or*
85 *local governments as set forth in the general appropriations act for the maintenance of collections and*
86 *exhibits or for the maintenance, operation, and interpretation of sites and facilities owned by historical*
87 *organizations unless:*

88 *1. A request and completed application for state aid is filed by the organization with the Department,*
89 *on forms prescribed by the Department, on or before July 1 prior to each regular session of the General*
90 *Assembly in an even-numbered year. Requests shall be considered by the Governor and the General*
91 *Assembly only in even-numbered years. The Department shall review each application made by an*
92 *organization for state aid prior to consideration by the General Assembly. The Department shall provide*
93 *a timely review of any amendments proposed by members of the General Assembly to the chairmen of*
94 *the House Appropriations and Senate Finance Committees. The review shall examine the merits of each*
95 *request, including data showing the percentage of nonstate funds raised by the organization for the*
96 *proposed project. The review and analysis provided by the Department shall be strictly advisory. The*
97 *Department shall forward to the Department of Planning and Budget any application that is not for the*
98 *maintenance of collections and exhibits or for the maintenance, operation, and interpretation of sites and*
99 *facilities owned by historical organizations. Such applications shall be governed by the procedures*
100 *identified in § 2.2-1505.*

101 *2. Such organization shall certify to the satisfaction of the Department that matching funds from*
102 *local or private sources are available in an amount at least equal to the amount of the request in cash or*
103 *in kind contributions which are deemed acceptable to the Department. These matching funds must be*
104 *concurrent with the project for which the state grant is requested. Contributions received and spent prior*
105 *to the state grant shall not be considered in satisfying the requirements of this subdivision.*

106 *3. Such organization shall provide documentation of its tax exempt status under § 501(c)(3) of the*
107 *United States Internal Revenue Code.*

108 *4. Such organization shall certify that the applicant has read and acknowledged all information and*
109 *requirements regarding how the grants will be administered and how funds will be disbursed.*

110 *5. Such organization shall state in its application the purpose of the grant. The grant recipient must*
111 *justify and request in writing approval by the Department for changes in the scope of the project prior*
112 *to implementing those changes. If grant funds are used for something other than the purpose for which*
113 *they were requested without prior review and approval by the Department, then all state funds must be*
114 *returned.*

115 *6. Such organization shall submit documentation on match funding and approved expenditures shall*
116 *be submitted with all requests for disbursement.*

117 *7. Such organization shall provide progress reports as prescribed by the Department. At a minimum*
118 *such reports shall be submitted with reimbursement requests and a final report at the conclusion of the*
119 *project.*

120 *8. Such organization receiving the state grant shall comply with applicable state procurement*

requirements pursuant to the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

9. In the case of new construction or ground disturbing activities funded by grants, the organization shall afford the Department an opportunity to review the potential impact on any historic resources. Such review shall be provided by the Department within 15 days of receipt of completed information.

10. For all grants for capital projects, whether for new construction, rehabilitation, or restoration, funds shall be disbursed only as reimbursement for approved activities.

For the purposes of this section, no grant shall be approved for private institutions of higher education or religious organizations.

B. In addition to the requirements of subsection A of this section, no state funds other than *appropriations or expenditures* for those facilities specified in § 10.1-2211 or 10.1-2212 shall be ~~appropriated or expended~~ *allocated* for the renovation or reconstruction of any historic site as set forth in § 2.2-1505 unless:

1. The property is designated as a historic landmark by the Board and is located on the register prepared by the Department pursuant to § 10.1-2202 or has been declared eligible by the Board for such designation but has not actually been placed on the register of buildings and sites provided for in § 10.1-2202;

2. The society, museum, foundation, or association owning such property enters into an agreement with the Department that the property will be open to the public for at least 100 days per year for no less than five years following completion, renovation, or reconstruction;

3. The organization submits the plans and specifications of the project to the Department for review and approval to ensure that the project meets generally accepted standards for historic preservation; and

4. The organization owning the property grants to the Commonwealth a perpetual easement placing restrictions on the use or development of the property satisfactory to the Board, if the organization has received \$50,000 or more within a four-year period pursuant to this section. The easement shall be for the purpose of preserving those features of the property which led to its designation as a historic landmark.

Nothing contained in this subsection shall prohibit any organization from charging a reasonable admission fee during the five-year period required in subdivision 2 herein if the fee is comparable to fees charged at similar facilities in the area.

C. The Department shall be responsible for the administration of this section and §§ 10.1-2211 and 10.1-2212 and the disbursement of all funds appropriated thereto.

State funds appropriated for the operation of historical societies, museums, foundations and associations shall be expended for historical facilities, reenactments, meetings, conferences, tours, seminars, or other general operating expenses as may be specified in the general appropriations act. Funds appropriated for these purposes shall be distributed annually to the treasurers of any such organizations. The appropriations act shall clearly designate that all such funds are to be used for the operating expenses of such organization.

2. That the provisions of this act adding Article 10 (§ 2.2-2537) of Chapter 25 of Title 2.2 of the Code of Virginia shall become effective in due course. All other provisions of this act shall become effective January 1, 2010.