2003 Session

Budget Bill - HB1400 (Introduced)

Item 4-2.01

§ 4-2.01 NONGENERAL FUND REVENUES

a. SOLICITATION AND ACCEPTANCE OF DONATIONS, GIFTS, GRANTS, AND CONTRACTS:

1. No state agency shall solicit or accept any donation, gift, grant, or contract without the written approval of the Governor except as provided below.

2. The Governor may issue policies in writing for approval procedures which:

a) allow state agencies on the authority of the agency head to solicit and accept nongeneral funds within the amounts appropriated to the agency for such funds;

b) allow state agencies to solicit and accept nongeneral funds in excess of appropriated amounts for such nongeneral funds; and

c) allow state agencies to solicit and accept nonmonetary donations, gifts and grants, except that donations, gifts and grants of real property shall be subject to § 4-4.00 of this act and § 2.2-1149, Code of Virginia. This provision shall apply to donations, gifts and grants of real property to endowment funds of institutions of higher education, when such endowment funds are held by the institution in its own name and not by a separately incorporated foundation or corporation.

3.a) The preceding subdivisions a 1 and a 2 shall not apply to donations, gifts and grants to the endowment funds of the institution of higher education, except as specified in a 2 for donations, gifts or grants of real property.

b) The preceding subdivisions a 1 and a 2 shall not apply to property and equipment acquired and used by a state agency or institution through a lease purchase agreement and subsequently donated to the agency or institution during or at the expiration of the lease purchase agreement, provided that the lessor is the Virginia College Building Authority. The State Council of Higher Education may authorize a phased approach to meeting this requirement when, in its judgment, it would result in annual tuition and fee increases for nonresident students that would discourage their enrollment.

c) The use of endowment funds for property, plant or equipment for state-owned facilities is subject to §§ 4-2.03, 4-4.01 and 4-5.05 of this act.

4. No community college shall solicit or accept donations, gifts, grants or contracts for research activities unless approved by the State Council of Higher Education for Virginia.

b. HIGHER EDUCATION TUITION AND FEES:

1. All nongeneral fund collections by public institutions of higher education, including collections from the sale of dairy and farm products, shall be deposited in the state treasury in accordance with § 2.2-1802, Code of Virginia,

and expended by the institutions of higher education in accordance with the appropriations and provisions of this act, provided, however, that this requirement shall not apply to private gifts, endowment funds, or income derived from endowments and gifts.

2.a) Financial support provided to the Commonwealth's institutions of higher education is predicated primarily upon the fulfillment by such institutions of their mission to provide educational opportunities to the citizens of the Commonwealth. The presence of students from outside the Commonwealth contributes materially to that mission and the appropriate proportion of such nonresident students will vary among the institutions according to their respective missions. Each institution and the Council of Higher Education shall monitor tuitions, fees, and other charges and the mix of resident and nonresident students to the end that the primary mission of providing educational opportunities to citizens of Virginia is served. The State Council of Higher Education shall develop and enforce uniform guidelines for reporting student enrollments and the domiciliary status of students. The Council shall report to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees no later than June 30 of each year on the tuition and fee charges at each public institution of higher education.

b) The determination of proper tuition, fees and charges shall be made by the Board of Visitors or other governing bodies of institutions of higher education provided, however, that the tuition and fee charges to nonresident students shall be not less than 100 percent of the average cost of education as calculated by the State Council of Higher Education in consultation with the Department of Planning and Budget. The State Council of Higher Education may authorize a phased approach to meeting this requirement when, in its judgment, it would result in annual tuition and fee increases for nonresident students that would discourage their enrollment.

c) Nonresident graduate students, up to the limit of 50 percent of the enrolled nonresident graduate students, employed by an institution as graduate teaching assistants, graduate research assistants, and graduate assistants and paid at an annual contract rate of $4,000 or more may be considered resident students for the purposes of charging tuition and fees.

3. The fund source "Higher Education Operating" within Educational and General Programs for institutions of higher education includes tuition and mandatory Educational and General fee increases as follows:

a) Increases in tuition and mandatory educational and general fees for Virginia resident undergraduate students in fiscal year 2003 and fiscal year 2004 shall be in accordance with the language set forth in Item 136 of this act, except for additional tuition and fees in conformity with the policy set forth in ~~Section~~ *§* 4-2.01 c. of this act.

b) The fund source "Higher Education Operating" within Educational and General Programs for institutions of higher education includes tuition and fee revenues from nonresident students to pay their proportionate share of the amortized cost of the construction of buildings approved by the Commonwealth of Virginia Educational Institutions Bond Act of 1992 *and the Commonwealth of Virginia Educational Facilities Bond Act of 2002.*

4. The entitlement to in-state tuition charges referenced in § 23-7.4:2 A (iii), Code of Virginia, shall be suspended during the current biennium.

5. Mandatory fees for purposes other than Educational and General programs shall not be increased for Virginia undergraduates in fiscal year 2003 and in fiscal year 2004 beyond the Consumer Price Index rate of inflation for materials and supplies, and beyond the requirements of wage and salary increases, as authorized by the General Assembly. This restriction shall not apply in the following instances: fee increases directly related to capital projects authorized by the General Assembly; other fee increases specifically authorized by the General Assembly and due to the small mandatory non-Educational and General program fees currently assessed students in the Virginia Community College System, increases in any one year of no more than $15 shall be allowed on a cost-justified, case-by-case basis, subject to approval by the State Board for Community Colleges. Fee increases required to carry out actions that respond to mandates of federal agencies are also exempt from this provision, provided that a report on the purposes and the amount of the fee increase is submitted to the Chairmen of the House

Appropriations and Senate Finance Committees by the institution of higher education at least 30 days prior to the effective date of the fee increase.

6. The Director, Department of Planning and Budget, shall appropriate and allot tuition and educational and general fee revenues in addition to those appropriated to the Educational and General programs of this act, provided that the additional revenue is applied solely to the operating programs of the Educational and General programs and that the request for additional nongeneral fund budget authority is consistent with budget items adopted in this act.

7. It is the intent of the General Assembly that any institution of higher education granting new tuition waivers to in-state or out-of-state students not authorized by the Code of Virginia must absorb the cost of any discretionary waivers.

8. Tuition and fee revenues from nonresident students taking courses through Virginia institutions from the Southern Regional Education Board's Southern Regional Electronic Campus must exceed all direct and indirect costs of providing instruction to those students. Tuition and fee rates to meet this requirement shall be established by the Board of Visitors of the institution.

9. It is the intent of the General Assembly that in-state students at Virginia's community colleges pay 20 percent of the cost of their education, and that in-state undergraduates at the other public institutions of higher education pay 25 percent of the cost of their education.

c. HIGHER EDUCATION PLANNED EXCESS REVENUES:

An institution of higher education may generate and retain tuition and fee revenues in excess of those provided in § 4-2.01 b preceding subject to the following:

1. Such revenues are identified by language in the appropriations in this act to any such institution.

2. The use of such funds is fully documented by the institution to the Governor prior to each fiscal year and prior to their allotment.

3. The funds are supplemental to, and not a part of, ongoing expenditure levels for educational and general programs used as the basis for funding in subsequent bienniums.

4. The receipt and expenditure of these funds shall be recorded as restricted funds on the books of the Department of Accounts and shall not revert to the surplus of the general fund at the end of the biennium.

5. Tuition and fee revenues generated by the institution other than as provided herein shall be subject to the provisions of §§ 4-1.03 b and 4-1.05 b 3 of this act.