2006 Special Session I

Budget Bill - HB5012 (Chapter 2)

Item 4-5.06

§ 4-5.06 DELEGATION OF AUTHORITY

a. The designation in this act of an officer or agency head to perform a specified duty shall not be deemed to supersede the authority of the Governor to delegate powers under the provisions of § 2.2-1304, Code of Virginia.

b.1.a) The provisions of § 4-5.08 b of Chapter 912 of the Acts of Assembly of 1996, pertaining to pilot programs for capital outlay projects in selected institutions of higher education, including Old Dominion University, are hereby continued.

b) Pursuant to those provisions, Christopher Newport University, the College of William and Mary, Old Dominion University, Radford University, the University of Virginia, and Virginia Polytechnic Institute and State University are authorized to oversee the capital process for nongeneral fund capital outlay projects included in the pilot program.

c) The above-referenced institutions of higher education participating in the nongeneral fund capital outlay pilot program are hereby delegated the authority of the Department of General Services to approve the use and administration of design-build or construction management as appropriate contract methods for nongeneral fund capital outlay projects.

d) The above-referenced institutions are hereby delegated the authority of the Department of General Services to approve the use of design-build or construction management as appropriate contract methods for general fund capital outlay projects.

c.1.a) The provisions identified in § 4-5.08 f and § 4-5.08 h of Chapter 1042 of the Acts of Assembly of 2003, pertaining to pilot programs for selected capital outlay projects and memoranda of understanding in institutions of higher education are hereby continued. Notwithstanding these provisions, those projects shall be insured through the state's risk managment liability program.

b) Based on the memoranda of understanding developed pursuant to § 4-5.08 h of Chapter 1042, 2003 Acts of Assembly, as periodically amended, or memoranda of understanding in effect prior to October 1, 2003, as periodically amended, the responsible Cabinet Secretary, or his designee, shall conduct an evaluation of each institution participating in a pilot program at least once every two years.

c) The Secretary shall report all evaluation findings and recommendations to the Governor and Chairmen of the Senate Finance and House Appropriations Committees within 15 business days of the completion of the evaluation.

d) To the extent an institution participating in a pilot program is not performing to the satisfaction of the responsible Cabinet Secretary, the institution shall have 90 calendar days from receipt of the Secretary’s written evaluation in which to develop a remediation plan. The institution shall submit the plan to the appropriate Cabinet Secretary and the Auditor of Public Accounts.

e) The Auditor of Public Accounts shall conduct a functional audit of the delegated program authority within 180 calendar days of receiving the institution's plan. Based on his findings, the Auditor of Public Accounts shall recommend to the Chairmen of the Senate Finance and House Appropriations Committees whether the institution should continue in the pilot program.

2. To the extent an institution is performing satisfactorily under the pilot programs, it is the intent of the General Assembly that it be removed from the pilot program and be delegated authority in the Code of Virginia to administer the specified duty or function on an on-going basis.

3. If during an independent audit conducted by the Auditor of Public Accounts, the audit discloses that an institution is not performing within the terms of the memoranda of understanding or their addenda, the Auditor shall report this information to the Governor, the responsible Cabinet Secretary, and the Chairmen of the Senate Finance and House Appropriations Committees. The responsible Cabinet Secretary shall consider this an evaluation in accordance with subparagraph c.1. b).

d. Institutions wishing to participate in a pilot program for the first time shall submit a letter of interest to the appropriate Cabinet Secretary. Within 90 calendar days of the receipt of the institution’s request to participate, the responsible Cabinet Secretary shall determine whether the institution meets the eligibility criteria and, if appropriate, establish a pilot program at the institution. The Cabinet Secretary shall report to the Governor and Chairmen of the Senate Finance and House Appropriations Committees by December 1 of each year all institutions that have applied for inclusion in a pilot program and whether the institutions have been granted authority to participate in the pilot program.

e. Notwithstanding the provisions of § 2.2-4309, Code of Virginia, no approval of the Governor shall be required for contract modifications as specified therein for the pilot programs of the selected institutions of higher education referenced in paragraph 1, provided that contract modifications of such projects, including construction and architectural and engineering change orders, shall be approved by the Boards of Visitors, which may further delegate this authority to the President, a Vice President, or the individual responsible for facilities design and construction matters at the selected institution of higher education to act on its behalf.

f. The selected institutions are hereby granted a waiver from the provisions of § 2.2-4301, Competitive Negotiation, subdivision 3a, Code of Virginia, regarding the not to exceed amount of $100,000 for a single project, the not to exceed sum of $500,000 for all projects performed, and the option to renew for two additional one-year terms.

g. The provisions of § 4-5.08 c of Chapter 912 of the 1996 Acts of Assembly pertaining to pilot programs for real property leases in selected institutions of higher education, including Old Dominion University, are hereby continued and expanded to include approval of income leases.

h. The University of Virginia and Virginia Polytechnic Institute and State University shall be delegated administrative authority to enter into capital leases on a pilot basis, provided that such capital leases have been specifically authorized by the Governor or the General Assembly pursuant to the Appropriation Act and have been reviewed and approved by the Treasury Board.

i. Notwithstanding any contrary provision of law or this act, delegations of authority in this act to the Governor shall apply only to agencies and personnel within the Executive Department, unless specifically stated otherwise.

j. Virginia Commonwealth University is hereby delegated the authority of the Department of General Services and the Governor provided in §§ 2.2-1149 and 23-4.1, Code of Virginia, to enter into leases with the Virginia Commonwealth University Health System Authority for space within the facilities which are the subject of the Master Lease between the University and the Authority dated June 10, 1997. This delegation of authority is limited to operating leases and excludes capital leases as defined by Generally Accepted Accounting Principles (GAAP).

k. The University of Virginia, with approval of its Board of Visitors, is hereby delegated authority on a pilot basis to acquire easements on property not owned by the university without prior approval by the Department of General Services.