2009 Session

# Budget Bill - SB850 (Introduced)



## General Conditions

**§ 2-0. GENERAL CONDITIONS**

A.1. The General Assembly hereby authorizes the capital projects listed in this act. The amounts hereinafter set forth are appropriated to the state agencies named for the indicated capital projects. Amounts so appropriated and amounts reappropriated pursuant to paragraph G of this section shall be available for expenditure during the current biennium, subject to the conditions controlling the expenditures of capital project funds as provided by law. Reappropriated amounts, unless otherwise stated, are limited to the unexpended appropriation balances at the close of the previous biennium, as shown by the records of the Department of Accounts.

2. The Director, Department of Planning and Budget, may transfer appropriations listed in Part 2 of this act from the second year to the first year in accordance with § 4-1.03 a 5 of this act.

B. The five-digit number following the title of a project is the code identification number assigned for the life of the project.

C. Except as herein otherwise expressly provided, appropriations or reappropriations for structures may be used for the purchase of equipment to be used in the structures for which the funds are provided, subject to guidelines prescribed by the Governor.

D. Notwithstanding any other provisions of law, appropriations for capital projects shall be subject to the following:

1. Appropriations or reappropriations of funds made pursuant to this act for planning of capital projects shall not constitute implied approval of construction funds in a future biennium. Funds, other than the reappropriations referred to above, for the preparation of capital project proposals must come from the affected agency's existing resources.

2. No capital project for which appropriations for planning are contained in this act, nor any project for which appropriations for planning have been previously approved, shall be considered for construction funds until preliminary plans and cost estimates are reviewed by the Department of General Services. The purpose of this review is to avoid unnecessary expenditures for each project, in the interest of assuring the overall cost of the project is reasonable in relation to the purpose intended, regardless of discrete design choices.

E.1. Expenditures from Items in this act identified as "Maintenance Reserve" are to be made only for the maintenance of property, plant, and equipment as defined in §4-4.01c of this act to the extent that funds included in the appropriation to the agency for this purpose in Part 1 of this act are insufficient.

2. Institutions of higher education can expend up to $1,000,000 for a single repair or project through the maintenance reserve appropriation without a separate appropriation. Such expenditures shall be subject to rules and regulations prescribed by the Governor. To the extent an institution of higher education has identified a potential project that exceeds this threshold or state agency has identified a potential project that exceeds the threshold prescribed in the rules or regulations, the Director, Department of Planning and Budget, can provide exemptions to the threshold as long as the project still meets the definition of a maintenance reserve project as defined by the Department of Planning and Budget.

3. Only facilities supported wholly or in part by the general fund shall utilize general fund maintenance reserve appropriations. Facilities supported entirely by nongeneral funds shall accomplish maintenance through the use of nongeneral funds.

F. Conditions Applicable to Bond Projects

1. The General Assembly hereby authorizes the capital projects listed in §§ 2-41 and 2-42 for the indicated agencies and institutions of higher education and hereby appropriates and reappropriates therefore sums from the sources

and in the amount indicated. The issuance of bonds in a principal amount plus amounts needed to fund issuance costs, reserve funds, and other financing expenses, including capitalized interest for any project listed in §§ 2-41and 2-42 is hereby authorized.
2. The issuance of bonds for any project listed in § 2-41 is to be separately authorized pursuant to Article X, Section 9 (c), Constitution of Virginia.
3. The issuance of bonds for any project listed in Item C-179 or C-180 shall be authorized pursuant to § 23-19, Code of Virginia.
4. In the event that the cost of any capital project listed in §§ 2-41 and 2-42 shall exceed the amount appropriated therefore, the Director, Department of Planning and Budget, is hereby authorized, upon request of the affected institution, to approve an increase in appropriation authority of not more than ten percent of the amount designated in §§ 2-41and 2-42 for such project, from any available nongeneral fund revenues, provided that such increase shall not constitute an increase in debt issuance authorization for such capital project. Furthermore, the Director, Department of Planning and Budget, is hereby authorized to approve the expenditure of all interest earnings derived from the investment of bond proceeds in addition to the amount designated in §§ 2-41 and 2-42 for such capital project.
5. The interest on bonds to be issued for these projects may be subject to inclusion in gross income for federal income tax purposes.
6. Inclusion of a project in this act does not imply a commitment of state funds for temporary construction financing. In the absence of such commitment, the institution may be responsible for securing short-term financing and covering the costs from other sources of funds.
7. In the event that the Treasury Board determines not to finance all or any portion of any project listed in Item C-179 of § 2-41 of this act with the issuance of bonds pursuant to Article X, Section 9 (c), Constitution of Virginia, and notwithstanding any provision of law to the contrary, this act shall constitute the approval of the General Assembly to finance all or such portion of any project listed in Item C-180 under the authorization of § 2-42 of this act.
8. The General Assembly further declares and directs that, notwithstanding any other provision of law to the contrary, 50 percent of the proceeds from the sale of surplus real property pursuant to § 2.2-1147 et seq., Code of Virginia, which pertain to the general fund, and which were under the control of an institution of higher education prior to the sale, shall be deposited in a special fund set up on the books of the Comptroller, which shall be known as the Higher Education Capital Projects Fund. Such sums shall be held in reserve, and may be used, upon appropriation, to pay debt service on bonds for the 21st Century College Program as authorized in Item C-7.10 of Chapter 924 of the Acts of Assembly of 1997.
G. There is hereby reappropriated:
1. The appropriations unexpended at the close of the previous biennium in the appropriations and reappropriations in Items C-325 through C-325.10 made by Chapter 847, Acts of Assembly of 2007, and
2. The appropriations unexpended at the close of the previous biennium of any amount transferred from Items C-325 through C-326.10 to any capital project established by authority of the Governor which conforms to the conditions in paragraph H below.
H. Upon certification by the Director, Department of Planning and Budget, there is hereby reappropriated the appropriations unexpended at the close of the previous biennium for all authorized capital projects which meet any of the following conditions:
1. Construction is in progress.
2. Equipment purchases have been authorized by the Governor but not received.
3. Plans and specifications have been authorized by the Governor but not completed.
4. Obligations were outstanding at the end of the previous biennium.
I. The Department of Planning and Budget is hereby authorized to administratively appropriate any nongeneral fund component of any capital project authorized in Chapters 859/827 (2002), Chapters 884/854 (2002), or Chapters 887/855 (2002).
J. Alternative Financing
1. Any agency or institution of the Commonwealth that would construct, purchase, lease, or exchange a capital asset by means of an alternative financing mechanism, such as the Public Private Education Infrastructure Act, or similar statutory authority, shall provide a report to the Governor and the Chairmen of the Senate Finance and

House Appropriations Committees no less than 30 days prior to entering into such alternative financing agreement. This report shall provide:
a. a description of the purpose to be achieved by the proposal;
b. a description of the financing options available, including the alternative financing, which will delineate the revenue streams or client populations pledged or encumbered by the alternative financing;
c. an analysis of the alternatives clearly setting out the advantages and disadvantages of each for the Commonwealth;
d. an analysis of the alternatives clearly setting out the advantages and disadvantages of each for the clients of the agency or institution; and
e. a recommendation and planned course of action based on this analysis.
K. Conditions Applicable to Alternative Financing
1. The following individuals, and members of their immediate family, may not engage in an alternative financing arrangement with any agency or institution of the Commonwealth, where the potential for financial gain, or other factors may cause a conflict of interest:
a. A member of the agency or institution's governing body;
b. Any elected or appointed official of the Commonwealth or its agencies and institutions who has, or reasonably can be assumed to have, a direct influence on the approval of the alternative financing arrangement; or
c. Any elected or appointed official of a participating political subdivision, or authority who has, or reasonably can be assumed to have, a direct influence on the approval of the alternative financing arrangement.
L. The budget bill submitted by the Governor shall include a synopsis of previous appropriations for capital projects from the General Assembly and authorizations by the Governor for such projects.
M. Appropriations contained in this act for capital project planning shall be used as specified for each capital project and construction funding for the project shall be considered by the General Assembly after determining that (1) project cost is reasonable; (2) the project remains a highly-ranked capital priority for the Commonwealth; and (3) the project is fully justified from a space and programmatic perspective.
N. Any capital project that has received a supplemental appropriation due to cost overruns must be completed within the revised budget provided. If a project requires an additional supplement, the Governor should also consider reduction in project scope or cancelling the project before requesting additional appropriations. Agencies and institutions with nongeneral funds may bear the costs of additional overruns from nongeneral funds.
O. The Governor shall consider the project life cycle cost that provides the best long-term benefit to the Commonwealth when conducting capital project reviews, design and construction decisions, and project scope changes.
P. The Governor shall provide the Chairmen of the Senate Finance and House Appropriations Committees an opportunity to review the six year capital improvement plan prior to the beginning of each new biennial budget cycle.
Q. On or before June 30, 2009, the State Comptroller shall revert the following amounts from the agency, fund code, and project code listed.

| **Agency Name/Project Title** | **Fund** | **Project Code** | **Amount** |
|---|---|---|---|
| Radford University | | | |
| Renovate Porterfield Hall | 0100 | 16618 | $467,600 |
| Renovate Porterfield Hall | 0817 | 16618 | $1,378,000 |
| Renovate Whitt Hall | 0100 | 17332 | $4,545,000 |
| Renovate Powell Hall | 0100 | 17333 | $5,948,000 |
| *Department of Corrections* | | | |
| *Construct Charlotte County Prison* | *0965* | *17729* | *$7,000,000* |

R. Notwithstanding any requirement to the contrary, any building, fixture, or structure to be placed, erected or

constructed on, or removed, or demolished from the property of the Commonwealth of Virginia, Department of Corrections, shall not be subject to review and approval of the Art and Architectural Review Board as contemplated in Code of Virginia § 2.2-2402, et. seq. In the event the Department seeks to construct a non-institutional type building not associated with the daily operation of a correctional facility such as a Probation & Parole District Office or Regional Office, the Department shall submit plans for Art and Architectural Review Board review and approval.

S. On or before August 30, 2008, the State Comptroller shall revert to the general fund an amount estimated at $55,000,000 from the following capital projects listed in the table below by agency, fund code, and project code; provided however, that the Director, Department of Planning and Budget, may direct the restoration of any portion of the reverted amount if the director shall subsequently verify an unpaid obligation cannot be paid as a result of this reversion:

| Agency Code | Project Code | Fund Code |
|---|---|---|
| 194 | 17091 | 0100 |
| 194 | 17490 | 0100 |
| 199 | 16937 | 0100 |
| 204 | 17189 | 0100 |
| 208 | 16713 | 0100 |
| 208 | 16792 | 0100 |
| 208 | 16793 | 0100 |
| 208 | 17424 | 0100 |
| 208 | 17494 | 0100 |
| 211 | 17119 | 0100 |
| 212 | 16798 | 0100 |
| 212 | 17306 | 0100 |
| 214 | 16301 | 0100 |
| 214 | 16802 | 0100 |
| 214 | 17017 | 0100 |
| 214 | 17317 | 0100 |
| 214 | 17323 | 0100 |
| 215 | 17325 | 0100 |
| 216 | 16808 | 0100 |
| 216 | 16809 | 0100 |
| 217 | 16813 | 0100 |
| 221 | 17339 | 0100 |
| 236 | 16403 | 0100 |
| 236 | 16825 | 0100 |
| 236 | 17452 | 0100 |

| | | |
|---|---|---|
| 242 | 16774 | 0100 |
| 246 | 17362 | 0100 |
| 246 | 17451 | 0100 |
| 260 | 16178 | 0100 |
| 260 | 16501 | 0100 |
| 260 | 16614 | 0100 |
| 260 | 16718 | 0100 |
| 260 | 16837 | 0100 |
| 260 | 16841 | 0100 |
| 260 | 16850 | 0100 |
| 268 | 17489 | 0100 |
| 425 | 17209 | 0100 |
| 702 | 17231 | 0100 |
| 720 | 17140 | 0100 |
| 777 | 17179 | 0100 |
| 799 | 16110 | 0100 |
| 799 | 16113 | 0100 |

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