
VIRGINIA STATE BUDGET

2024 Session

Budget Bill - HB30 (Introduced)

Bill Order » Part 4: General Provisions » Deficit Authorization and Treasury Loans » Item 4-3.03

Long-term Leases

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§ 4-3.03 LONG-TERM LEASES

a. GENERAL:

1. As part of their capital budget submission, all agencies and institutions of the Commonwealth proposing building projects or acquisition of property through a lease or financed purchase that may qualify as a capital project based on a lease agreement, as defined in the guidance below, and that may be supported in whole, or in part, from appropriations provided for in this act, shall submit proposals to the Department of Planning and Budget through the capital budget request process.
2. A capital project based on a lease agreement is defined as meeting at least one of the following criteria:
 - a) The lease transfers ownership of the property to the lessee by the end of the lease term or contains a bargain purchase option;
 - b) The lease arrangement is used to support the construction of a new facility that is equal to or exceeds 15,000 square feet;
 - c) The lease term is equal to 75 percent or more of the estimated economic life of the leased property. However, if the beginning of the lease term falls within the last 25 percent of the total estimated economic life of the leased property, including earlier years of use, this criterion should not be used for purposes of classifying the lease.
 - d) The present value at the beginning of the lease term of the minimum lease payments, excluding that portion of the payments representing executory costs such as insurance and maintenance to be paid by the lessor, including any gain thereon, equals or exceeds 90 percent of the excess of the fair value of the leased property to the lessor at the inception of the lease over any related investment tax credit retained by and expected to be realized by the lessor. However, if the beginning of the lease term falls within the last 25 percent of the total estimated economic life of the leased property, including earlier years of use, this criterion should not be used for purposes of classifying the lease.
3. If needed, agencies can consult with the Department of General Services to determine if their proposed leases meet the criteria of a.2.c) and a.2.d).
4. The proposals shall be submitted in such form as the capital budget request instructions may prescribe. The State Treasurer shall be responsible for incorporating existing and authorized applicable lease agreements into the annual Debt Capacity Advisory Committee reports.
5. All lease agreements required to be treated as a capital budget request must be authorized in an Appropriation Act or other legislation except as otherwise provided in this section.

b. APPROVAL OF FINANCINGS:

1. For any project financed through the issuance of securities, the Treasury Board shall approve the terms and structure of such financing pursuant to § 2.2-2416, Code of Virginia.

2. For any project where the lease transfers ownership of the property to the lessee by the end of the lease or the lease is used to support the construction of a new facility, and for which costs will exceed \$5,000,000 and which is financed through a lease or financed purchase transaction, the Treasury Board shall approve the financing terms and structure of such lease or financed purchase in addition to such other reviews and approvals as may be required by law. The State Treasurer shall notify the Chairs of the House Appropriations and Senate Finance and Appropriations Committees, the Secretary of Finance, and the Director, Department of Planning and Budget, of the action of the Treasury Board as it regards this subdivision within five calendar days of its action.

c. REPORTS: Not later than December 20 of each year, the Secretary of Finance and the Secretary of Administration shall jointly be responsible for providing the Chairmen of the House Appropriations and Senate Finance and Appropriations Committees with recommendations involving proposed lease agreements subject to § 4-3.03 a.

d. This section shall not apply to leases or financed purchases that are funded entirely with nongeneral fund revenues and are entered into by public institutions of higher education that have a Management Agreement with the Commonwealth of Virginia pursuant to the Restructured Higher Education Financial and Administrative Operations Act. Furthermore, the Department of General Services is authorized to enter into leases for executive branch agencies provided that the resulting lease or financed purchase is funded entirely with nongeneral funds, is approved based on the requirements of § 4-3.03 b.1 and 2 above and would not be considered tax supported debt of the Commonwealth.

e. The Governor may authorize proposed building projects or acquisition of property through a financed purchase that may qualify as a capital project based on a lease agreement as defined in § 4-3.03 a.2. above that are not authorized in an Appropriation Act or other legislation and support a program approved by the General Assembly through appropriations, under one or more of the following conditions:

1. The nongeneral fund share of the lease obligations does not exceed the agency's expected available nongeneral fund revenues.

2. The general fund share of the annual lease obligations does not result in the agency exceeding its current available annual general fund appropriation.