

Text of Governor Warner's message
regarding his actions on HB 1400, the budget adopted by the 2003 General Assembly
to amend the 2002-2004 biennial budget
May 1, 2003

I have signed House Bill No. 1400, which amends the appropriations adopted last year for the 2002-04 biennium, including four budget item vetoes.

The budget in general achieves most of the objectives sought by the General Assembly and by me. Amidst the most serious fiscal situation in decades, we were able to increase significantly state support for our public schools, provide a much-needed and deserved pay raise for state employees, faculty, teachers, and state-supported local employees, enhance measures to protect the safety of our citizens, strengthen our ability to respond to homeland security issues, and provide for needed capital construction. Most significantly, we launched the most sweeping reform of state government in a generation. Our reforms have made state government stronger and more efficient, and they will yield significant savings to our citizens. Because we have acted aggressively to respond to our fiscal challenges, Virginia has been able to avert the kind of serious disruption in services that other states have experienced. We were able to accomplish this in a cooperative spirit between the legislative and executive branches.

Notwithstanding our joint accomplishments, I objected to certain actions taken by the General Assembly in the appropriation bill. The amendments submitted in the Reconvened Session attempted to address these issues. I express my appreciation to you for adopting most of them. Nevertheless, the rejection of several amendments leaves certain problems unresolved. Accordingly, as provided by the Constitution of Virginia, I have exercised my prerogative to reject certain provisions in the reenrolled appropriation bill that are within my constitutional authority to veto.

These vetoes encompass four provisions and are consistent with the 1996 decision of the Supreme Court of Virginia in the *Gilmore v. Landslide* case in which the Court, among other things, held that the Governor could not reach back to veto a provision that had not been amended or added in the current legislative session. My vetoes in all cases are to provisions amended or added in the 2003 Session.

Moreover, after careful research, I am advised that when the General Assembly and the Governor cannot agree on an amendment to a previously enacted appropriation provision, that provision is retained in the form in which it was originally enacted into law, just as is the case with any provision of the Code of Virginia for which an amendment is offered and is either defeated or vetoed. Therefore, my vetoes have the effect of retaining the affected provisions as they were enacted in Chapter 899 of the 2002 Session, to the extent there is applicable language in that act.

The basis and logic for my separate veto actions are explained below.

Item 56

The enrolled budget bill eliminated in the second year of the biennium all the positions and funding for the Virginia Liaison Office. With transportation legislation, Temporary Assistance for Needy Families (TANF) reauthorization, and homeland security funding pending in Congress, and another round of military base closings on the horizon, and given the fact that other states are increasing their presence in Washington, D.C., I submitted an amendment to the Reconvened Session to reestablish the Virginia Liaison Office as a separate agency within the Office of the Governor.

Although the General Assembly rejected the amendment, that does not alter Virginia's need for a presence in Washington, D.C. The fact is that the Commonwealth benefits significantly from the Virginia Liaison Office through its contacts and lobbying efforts, and through its work to identify federal funding opportunities. Letters I have received in the past few days from Senator Warner and Senator Allen attest to the Liaison Office's important role and consistent effectiveness.

Closing the Office would only place Virginia at a competitive disadvantage with other states, at a time when there is much at stake on the national scene. Therefore, I am vetoing the second year amendment to Item 56 in the reenrolled appropriation bill. This action restores the FY 2004 appropriation of \$350,781 contained in Chapter 899 and continues the Virginia Liaison Office as a free-standing agency within the Office of the Governor. At the same time, I have directed that the Office take the steps necessary to ensure that the budget reduction originally assumed is actually realized.

Item 471.10

The introduced appropriation bill contained detailed reporting requirements mandating the Governor to provide the money committee chairmen, within 30 days of the transfer, the fund amounts and position transfers made pursuant to creation of the consolidated Virginia Information Technologies Agency. The introduced bill also required the Governor to report to the General Assembly any uses of the Virginia Technology Fund.

The enrolled appropriation bill contained significantly more stringent and restrictive reporting requirements. For example, language required that the money committee chairmen be provided detailed information at least 60 days prior to any consolidation of technology procurement or operations, including: a listing by agency of the equipment identified for transfer; a listing by agency of the position description of each position to be transferred; the methodology used to determine the staff and equipment to be transferred; and a discussion of the manner in which procurement and operation of information technology would be continued.

In addition, language specified that a quarterly report be made to the money committees on the activities of VITA, the status of cost savings, consolidations, and any other requested information, and finally, that a report be made by August 1, 2003, on the prototype of the memorandum of agreement between VITA and state agencies, with a prohibition against executing a memorandum of agreement without prior legislative review and comment.

The amendment proposed to the Reconvened Session would have modified the reporting requirements to strike a balance between the General Assembly's legitimate interest in monitoring this important consolidation effort and the burdensome requirements included in the enrolled appropriation bill. The General Assembly rejected the amendment. Therefore, I am vetoing Item 471.10, which contains the detailed reporting requirements.

In taking this action, I have no intention of by-passing the appropriate oversight of the General Assembly. I am prepared to work with the relevant committees to develop a reporting mechanism that meets the needs of the General Assembly, without hampering consolidation efforts. At the same time, the reporting requirements in the enabling legislation for the Virginia Information Technologies Agency (Chapters 981 and 1021 enacted in the 2003 Session) will go into effect and will be adhered to.

Item 513.10

The General Assembly amended the introduced appropriation bill to require the Secretary of Commerce and Trade to prepare an agency reorganization plan to consolidate into a single agency the Department of Business Assistance, Department of Minority Business Enterprise, the A. L. Philpott Manufacturing Extension Partnership, and the Virginia-Israel Advisory Board, with an assumed \$500,000 general fund saving for fiscal year 2004. My proposed amendment would have removed the Department of Minority Business Enterprise and the A. L. Philpott Manufacturing Extension Partnership from the proposed merger, inasmuch as their missions and responsibilities are not consistent with those of the other two entities. My amendment would have further authorized the inclusion of other agencies in the merger, thus providing greater flexibility to achieve the desired efficiencies.

The General Assembly did not adopt the amendment proposed at the Reconvened Session. Therefore, I am vetoing Item 513.10. The effect of my veto is to eliminate the mandate for a merger which identifies in advance a specific set of agencies to be merged, and to reduce the unappropriated general fund balance by \$500,000 - the amount assumed to be saved from the mandated merger.

Nonetheless, I will direct the Secretary of Commerce and Trade to undertake an assessment of the organization of agencies under the Commerce and Trade Secretariat and to develop his recommendations for a reorganization of agencies within the area, with savings to be achieved from administrative efficiencies.

§ 4-1.04

The reenrolled bill adds a number of restrictions to the Governor's authority to reduce appropriations administratively, in the event of an unanticipated revenue shortfall. Central among these is a requirement that any proposals for budget reductions required due to a revenue shortfall be released to the General Assembly within five days, whether the proposals are approved or not. This requirement would apply whether the plans were submitted to the Governor, a Cabinet Secretary, or a member of the Governor's staff - either electronically or in writing.

Requiring the release of tentative reduction proposals before they have been reviewed would have the practical effect of eliminating or severely constraining confidential and candid communication between a governor and his appointees about options for reducing agency budgets - at a time when such confidential communication is needed most. Such a change raises serious constitutional questions involving separation of powers and executive privilege.

During my term, the Executive Department has been very forthcoming in sharing information with the General Assembly, and I plan to make certain that this cooperation continues for the remainder of my term in office. With this in mind, my amendment to the Reconvened Session would have modified the restrictions included in the enrolled budget by specifying that the General Assembly receive a summary of proposed or draft agency reduction plans as well as the final plans approved by the Governor. Although I felt that this modified approach would provide the General Assembly with adequate information to exercise its oversight responsibilities, the amendment was not adopted.

Accordingly, I am vetoing the amended § 4-1.04. The effect of this action is to retain the process and provisions that were contained in Chapter 899 - the Appropriation Act adopted during the 2002 Session. However, I want to reiterate that I plan to cooperate fully with the General Assembly and to share all relevant information necessary to meet its legislative responsibilities, in the event that future budget reductions are required. Reporting requirements that have been in place for over a decade and that have served past Governors and General Assemblies well will be followed. And, the principles of fiscal responsibility that have been a hallmark of the Commonwealth throughout most of its history will not be compromised.